

Commonwealth of Kentucky
Division for Air Quality
RESPONSE TO COMMENTS

ON THE TITLE V DRAFT PERMIT V-07-024

Barton Brands, Ltd.

300 Barton Road

Bardstown, KY 40004

September 7, 2007

Lisa Beckham, Reviewer

SOURCE ID: 21-179-00020

AGENCY INTEREST: 3247

ACTIVITY: APE20060001

SOURCE DESCRIPTION:

On October 19, 2004 Barton Brands, Ltd submitted an application for the renewal of their Title V permit, V-00-001. Supplemental information was received on February 26, 2006 and April 30, 2007. Barton Brands operates a distillery in Nelson County, Kentucky, where whiskey and bourbon are produced from grains through fermentation and distillation.

PUBLIC AND U.S. EPA REVIEW:

On June 6, 2007 the public notice on availability of the draft permit and supporting material for comments by persons affected by the plant was published in *The Kentucky Standard* in Bardstown, Kentucky. The public comment period expired 30 days from the date of publication. Comments on were also received during a public hearing in Bardstown, Kentucky on August 22, 2007.

Attachment A to this document lists the comments received during the 30-day public comment period and the Division's response to each comment. Attachment B to this document lists the comments received during the public hearing and the Division's response to each comment. Minor changes were made to the permit as a result of the comments received, however, in no case were any emissions standards, or any monitoring, recordkeeping or reporting requirements relaxed. The U.S. EPA has 45 days to comment on this proposed permit.

ATTACHMENT A

Response to Comments Received During the 30-day Public Comment Period

Comments on Barton Brands, LTD., Draft Title V Air Quality Permit submitted by Dallas R. Armstrong of New Haven, KY.

Comments

1. In opening this letter, I would like to acknowledge that while, there have been some steps taken in the right direction to improve the Air Quality in Bardstown, KY concerning emissions and odors from the Barton Brands Distillery. Myself and others in this community feel there could still be more improvements made with the Air Quality and the holding pretreatment lagoons and enforcement of local ordinance and state and federal oversight in the area of the waste water discharges from Bartons to the City of Bardstown waste water collection system and that maybe a progressive fine programs might be applicable in this problems with reoccurring “spills” or discharges which is making the city and community flat out stink!!!

Division’s response: Comment acknowledged. Regarding odors:

Pursuant to 401 KAR 53:010, Appendix A, at any time when 1 volume unit of ambient air is mixed with 7 volume units of odorless air, the mixture must have no detectable odor.

Pursuant to 401 KAR 53:005 Section 2, the secondary standard for odor shall be applicable only when the cabinet receives a complaint with respect to odors from a source.

Comment

2. So I Dallas Roy Armstrong am asking for a public hearing for myself and other concerned citizens in this community to inform and address all issues in this matter and ask that the emission be held to,

	mmBtuor less
Particulate	0.02 →
SOX	0.02 →
NOX	0.07 →
H2SO4	0.01 →
Opacity	20 % →

Division’s response: Comment acknowledged, however, due to the size of the boiler, 99.5 MMBtu/hr, and the year it was constructed, 1961, the emission limits (PM, SO₂, and Opacity) for this unit are set in accordance with the requirements of 401 KAR 61:015 and those limits are included in the permit. This regulation does not set a NO_x or H₂SO₄ limit and the Division does not have the authority to do so.

Comments on Barton Brands, Ltd. Draft Title V Air Quality Permit submitted by Johnnie B. Colwell on behalf of Barton Brands, Ltd.

Comment

Permit Application Summary Form

1. The Permit Application Summary Form listing of actual and potential emissions needs to be revised to reflect that potential emissions of SO₂ are 249 tons per year (not 404 tons per year) since the source has an existing enforceable limit on its potential to emit SO₂.

Division's response: The Division concurs. The potential to emit value has been changed to 225 tons per year for SO₂. See Comment 4 regarding the 225 tons per year limit versus 249 tons per year.

Comment

2. The third page of the Permit Application Summary Form discusses imposition of sourcewide limits on volatile organic compounds ("VOC") and sulfur dioxide of 225 tons per year. First, there is no basis for imposition of a limit on VOC emission to preclude PSD. Therefore, the reference to a VOC annual limit should be deleted.

Second, pursuant to Permit No.C-93-128, and as reflected in the initial Title V Operating Permit No. V-00-001 (at page 15), the limit established by the Division and accepted by Barton Brands to preclude applicability of PSD was 249 tons per year of sulfur dioxide emissions. There is no legal basis for further reducing the previously established limit in this reissuance of the Title V permit. According, please revise the Statement of Basis and the permit to delete reference to a 225-ton annual cap on sulfur dioxide and substitute 249 tons per year sulfur dioxide.

This comment applies to all discussions of the emissions caps, including the following:

- Discussion of Emission and Operating Caps on page 2 and page 5 of the Permit Statement of Basis
- Condition 1 for Emission Units 07 and 08 in the permit (page 11)
- Condition 1 for Emission Unit 09 in the permit (page 13)
- Condition 3 of Section D Group Requirements in the permit (page 20)

Division's response: The Division agrees that the reference to a source-wide limit on VOCs should be deleted. This was included by mistake. The Division disagrees that the ton per year limit on SO₂ should be changed from 225 to 249 tons per year. The limit was changed to make the permit enforceable as a practical matter. Using 249 tons per year gives very diminutive room for error and is not practically enforceable without additional or stringent monitoring, recordkeeping, and reporting. However, should Barton Brands' production increase such that their potential to emit would be greater than 225 but less than 250 tons per year the facility may request a modification in the source-wide emission limit.

Comment

Permit

3. It is Barton Brands' understanding that the text of the "Description" portions of the permit is for informational purposes only and that the substantive requirements are contained in the other portions of the permit. Barton Brands has included some requested changes to the Description in these Comments simply for accuracy even though the Descriptions are for informational purposes only.

Division's response: Comment acknowledged.

Comment

4. On page 4 of the Permit Statement of Basis and on pages 14 and 16 of the permit (Conditions 2.b and 2.c and the CAM table), regarding Emission Unit 09, please revise the discussion of the applicable visible emission requirements under 401 KAR 61:015. The Barton Brands facility is not located in a region classified as Priority 1 for particulate and therefore, Section 4(3) of the regulation applies rather than Section 4(2). Pursuant to Section 4(3)(b) of 401 KAR 61:015, maximum of 60 percent opacity (not 40 percent) is permissible for not more than six consecutive minutes in any sixty consecutive minutes during cleaning the fire box or blowing soot. Barton Brands suggests that the permit language be revised as follow:

Pursuant to 401 KAR 61:015, Section ~~4(2)(b)~~ 4(3)(b), visible emissions shall not exceed ~~twenty (20)~~ forty (40) percent opacity based on a six-minute average except that a maximum of ~~forty (40)~~ sixty (60) percent opacity shall be permissible for not more than six (6) consecutive minutes in any sixty (60) consecutive minutes during cleaning the fire box or blowing soot.

Pursuant to 401 KAR 61:015, Section ~~4(2)(c)~~ 4(3)(c), emission shall not exceed ~~twenty (20)~~ forty (40) percent opacity based on a six-minute average except during building a new fire for the period required to bring the boiler up to operating conditions provided the method used is that recommended by the manufacturer and the time does not exceed the manufacturer's recommendations.

Division's response: The Division concurs, change made.

Comment

5. With respect to Emission Unit 03, Barton Brands has been able to increase the throughput of the fermentation vessels with greater attention to production and quicker turns without making physical changes to the equipment. The current throughput of the fermentation vessels is 7.9 tons per hour, up to a maximum of 9.8 tons grain/hour. Therefore, the permit and statement of basis should be revised to reflect the maximum throughput of 9.8 ton grain/hour for the fermentation vessels. Additionally, Barton Brands requests that the stillage rate be stated as a daily value, rather than hourly. The revised stillage rate would be 264 tons grain per day. Barton Brands is simultaneously submitting updated forms DEP7007B, DEP7007N and DEP7007V to incorporate these changes. This comment related to:

- Discussion of Emission Unit 03 on pages 4 through 5 of the Statement of Basis
- Description of Emission Unit 03 on page 6 of the permit

Comment

6. Additionally with respect to Emission Unit 03, please revise Condition 4 and Condition 5 to require monitoring and recordkeeping of the “amount of grain” processed.

Division’s response: Changes made.

Comment

7. With respect to Emission Unit 05, please revise the description in the permit (page 9) and in the Statement of Basis (page 5) to state that “the aging warehouse have a capacity of 548,976 barrels and delete the reference to “per year”. The warehouses only hold a fixed number of barrels. Additionally, on page 5 of the Statement of Basis, the first sentence should be revised by deleting “fermentation” and substituting “distillation” in order to make the statement accurate.

Division’s response: Changes made.

Comment

8. With respect to Emission Unit 06, there are actually 45 tanks, rather than 41, and the total capacity is 1,440,922 gallons per year. Two tanks were added in 1997, and a copy of the submittal to the Division is attached. An additional tank was added in May 2000, and another in January 2005. These tanks were inadvertently omitted from the renewal application. Updated forms DEP7007B and DEP7007J are submitted simultaneously under separate cover. Accordingly, please update the description of Emission Unit 06 to state “45 holding tanks” and a “capacity of 1,440,022 gallons per year”. Please revise the permit (page 10) and Statement of Basis (page 5).

Additionally, please correct the permit (page 5) and Statement of Basis (page 5) to state the capacity of the bottle filling lines as 15,238 “gallons per hour”, instead of “per year”.

Division’s response: Changes made.

Comment

9. Regarding the description of Emission Unit 10, Barton Brands requests that the processing rate for the wastewater treatment facility be revised to read 33, 400,000 gallons per year. Annual expressions of process rate for wastewater treatment facilities are typical, rather than rate per hour, which really in not representative of the nature of the wastewater treatment process itself. Please make this change in the Statement of Basis (page 5) and in the permit (page 18).

Division’s response: Change made.

Comment

10. The draft Title V permit contains visible emission monitoring requirements that differ from the language of the current Title V permit. The current permit conditions are sufficient, and Barton Brands requests that the new draft be revised to use the existing language. The history over the term of the first Title V permit has certainly not indicated any routine problems with compliance warranting imposition of more burdensome requirements at permit renewal. The current permit language is protective of the environment and avoids unduly burdening plant personnel by only triggering performance of a Method 9 opacity reading where there is true need. This comment applies to Condition 4(b) for Emission Unit 02 (page 5 of the permit), and emission Unit 04 (page 7 of the permit). For the reasons discussed below in Comment 12, the associated condition for Emission Units 07 and 08 (page 12) should be deleted. However, if the Division rejects that request, the language should be revised as requested in this comment.

Division's response: The Division does not concur that the visible emission monitoring and recordkeeping requirements throughout the entire permit, as conditioned, are onerous, overburdening, or unnecessary. "The Cabinet Provisions and Procedures for Issuing Title V Permits" states in Section III. Monitoring Requirements, "2) If the applicable requirement does not require periodic testing or monitoring, the permit shall contain periodic monitoring sufficient to yield reliable data from the relevant time period representative of the source's compliance with the permit." [401 KAR 52:020, Section 26] Recently issued Title V permits for existing comparable industry major sources in Kentucky including Buffalo Trace (V-03-032) and Jim Beam (V-03-009 & V-03-039) have identical permit terms and conditions for visible emission monitoring and recordkeeping that are equally stringent as Barton Brand's. The Division believes that the recordkeeping and monitoring requirements in the draft permit, as conditioned, are sufficient to represent the source's compliance status with visible emissions and will not be changed.

Comment

11. As a general comment, Barton Brands, requests that the monitoring and recordkeeping requirements of the permit be revised so that all of the conditions are consistent and required annual tracking of processing rates as specified for Emission Unit 03. It is easier (and ensure more consistent results) if facility personnel have one tracking period instead of having some that are annual and some that are monthly.

Division's response: The reason for the two different tracking periods is that Emission Units 03, 05, 06, and 10 do not have any applicable regulations so the yearly tracking method is used to maintain a minimal level of monitoring. Emission Units 02 and 04 have emission limits based on an applicable regulation that requires at least a monthly tracking periods to ensure adequate monitoring for compliance with the allowable emission limits. No changes made.

Comment

12. The tree steam rotary dryers are included in the existing Title V permit on page 7 as "Emission Unit 04 (03-002 Spent Grain Drying." The draft permit needs to be revised to include the dryers. The "cyclone separator" can remain identified as a separate emission unit, downstream of the dryers, but Barton Brands requests that the maximum operating rate in the Description be restated as 3 tons/hour. Improved operational control has allowed distillery personnel to improve the throughput rate.

Division's response: The potential emissions from this unit is less than five tons, hence it has been moved to Section C of the permit as an insignificant activity, as stated in the Statement of Basis.

Comment

13. With respect to the testing requirements in Condition 3.b and the opacity monitoring in Condition 4.b, these requirements are not necessary and should be deleted. The sulfur dioxide emission can be calculated as the permit provides so there is no need for testing. Testing for particulate matter emission is not necessary because Condition 1.b requires the sulfur content of fuel oil burned to be less than 0.5 percent by weight and Condition 2.e provides that the unit is "not subject to a PM standard under 40 CFR 60.43c" if the affected facility combusts oil containing no more than 0.5 weight percent sulfur.

Similarly, there is no need for opacity monitoring since Barton Brands is deemed to be in compliance when burning natural gas and, burning fuel oil in compliance with the permit, no particulate standard applies which should include opacity. Alternatively, if the opacity monitoring is

included pursuant to 401 KAR 59:015 please see Comment 9 above.

With respect to Condition 6, Reporting Requirements, the condition should refer to 40 CFR 60.48c(e)(11), which specifically addresses the fuel oil certification option for compliance, rather than 401 KAR 52:020, Section 26, which simply incorporates certain documents by reference. Also, in order to minimize the number of different reporting periods for plant personnel to track, Barton Brands requests that it be allowed to include the required information on its semiannual report rather than making separate quarterly reports.

*Division's response: The Division concurs that according to 40 CFR 60.44c (h) a performance test for SO₂ is not required since the units will use fuel supplier certification. Upon review, the Division determined that the reference to 40 CFR 60.43c (e)(4) is incorrect. 40 CFR 60.43c (e)(4) is only applicable for units that commenced construction, reconstruction or modification **after** February 28, 2005. It has been deleted from the permit. However, the unit is still subject to an opacity limit under 40 CFR 60.43c, while the particulate emission limit is established under 401 KAR 59:015. With regards to Subsection 6 and reporting periods, the changes have been made.*

Comment

14. With respect to Condition 3 for Emission Unit 09 (page 14 of the permit), Barton Brands requests that Condition 3.a be revised to read: "Within 180 days of issuance of this permit' the permittee will conduct testing. Although no permitting delays are anticipated, Barton Brands intends to proceed with stack testing in September and will want to rely on those test results even if, for example, EPA has not completed its review of the Title V permit. Similarly, Barton Brands requests that Condition 3.b be revised to allow the same flexibility so that testing would occur within "one year of initial issuance".

Division's response: The Division concurs, changes made.

Comment

15. Regarding data collection frequency, please revise the permit language on page 16 to allow recording of control device differential pressure every four hours. Given the nature of the boiler operation, little variability is expected over the short term. Recording of data every four hours will be adequate assurance of compliance.

With respect to references to 401 KAR 52:020, Section 26 in Condition 5.a and 5.b for Emission Unit 09 (page 15 of the permit), Barton Brands questions whether it is appropriate to cite the regulation that incorporates the Title V guidance document as the basis for the requirements since the unit is subject to CAM.

Please revise the reporting requirements in Condition 6 for Emission Unit 09 (page 7) to allow this information to be included in the semiannual reports rather than adding an additional quarterly reporting obligation.

Division's response: The data collection frequency was changed to once every four hours, as this was the recording frequency submitted in the CAM plan by the facility. 401 KAR 52:020, Section 26, was referenced in absence of specific requirements in the CAM plan for monitoring of the items included in Conditions 5.a and 5.b. Condition 6 has been revised to allow semiannual reporting.

Comment

16. With respect to Section C of the permit (page 19), Barton Brands requests that the following

language in the second sentence be deleted: “and some minimal level of periodic monitoring may be required.” The section goes on to specify monitoring that is required so the quote phrase is superfluous and should be deleted. If the Division does not want to delete the phrase as requested, please confirm that the permit specifies what is required at this facility. Finally, there is typographical error in the last sentence before the listing of insignificant activities - the sentence should read “any corrective actions”, rather than any conservative actions”.

Division’s response: The Division concurs, changes made.

Comment

17. With respect to the Group Requirements on page 20-21 of the permit, Barton Brands has the following additional comment. Please revise Condition 5 on page 21 to delete the requirement to provide notification if the fuel supplier changes. A 60-day advance notice of a change in supplier is not workable for this plant. The plant has to be able to change supplies without delay.

Division’s response: Upon discussions with the facility, this requirement was revised to allow semiannual reporting of fuel supplier changes.

Comment

18. With respect to Condition G.7.a at page 30-31 of the permit, Section 24 of 401 KAR 52:020 established the emergency affirmative defense and sets out the requirements for the use of the defense in detail. As such, the permit should follow the language of the regulation that establishes the defense. Notification under 401 KAR 50:055 or KRS 224.01-400 are not elements of the emergency affirmative defense in the regulation. It is inappropriate for the Division by permit condition to modify the language regulation. Barton Brands requests that the references to notice under 401 KAR 50:055 and KRS 224.01-400 in the condition be deleted. The deletion of those references will not have an adverse effect on those regulatory programs because the permit also specifically states that compliance with the permit condition does not relieve the permittee from compliance with other local, state or federal notification requirements.

Division’s response: Comment acknowledged. No changes made.

ATTACHMENT B

Response to Comments Received During the Public Hearing

Additional comments were received during a public hearing held August 22, 2007.

The following comments were received from Dallas Armstrong:

Comment

1. From some various steps that were taken in the community prior to my involvement and then, since my involvement of trying to get better air quality for the community. And kind of wanting some answers, if possible as to why we don't have a regular monitoring application that goes on with this distillery, since it is a major source for heavy pollutants. And I've been told that numerous times it's kind of a we trust you, you trust us deal is the way I've gotten it.

Division's response: The draft permit does include monitoring, as well as recordkeeping and reporting requirements for all emission units to ensure permitted emission limits are not exceeded. Additionally, the Division has the authority to inspect the facility to determine compliance with the permit conditions. Barton Brands could be subject to enforcement actions, if the Division finds violations of the terms and the permitted conditions.

Comment

2. I'm a little discouraged with the opacity we use, the way they'll be handled afterwards, but if that's the best we can get, that's what we get.

Division's Response: The Division assumes this comment is in reference to the opacity from the coal-fired boiler's stack. According to 401 KAR 61:015, the opacity from this stack cannot exceed 40 percent, except under certain conditions which are spelled out in the permit. Barton Brands does not have a history of exceeding this limit.

Comment

3. How should I present these things, which are where numerous people in the community complained to the mayor, City Council, wrote a letter demanding that something be done about the odors and the air problems in the community that were so severe that people could not hardly breath. Now, whether it's from emissions, sewage dispersions into the city sewer or the holding lagoons upon the property of Barton's, it all effected the air quality in our community and it resulted in an extreme high number of people with respiratory conditions, myself to the point that I nearly died a couple of times. I have increasingly gotten better since moving just a few miles south of Bardstown now and staying adamantly involved in this to see to it that something is addressed about the problem. I can come in Bardstown now and breath without heavy problems, where prior to I might have to come in here and go straight to the emergency room. So this is one thing.

Division's Response: Comment acknowledged.

Comment

4. There is related information and I find it discouraging that even though it's an environmentally protection cabinet that you guys don't communicate within, the Division of Water handed down some issues concerning the city and also Bartons with a compliance and schedule agreement, it addressed some air quality problems with discharges or high volumes of ethyl alcohol or other disbursements into the city sewers which may have resulted in hydrogen sulfides, ammonias and other gases in the community. Air quality is air quality, no matter where it starts from it's still air quality. If you can't breath the air, it's a problem with the air, it doesn't matter if it's coming off of a lake or if it's coming off the ground, it should still be air quality if it's detrimental to people being able to breath.

Division's Response: Comment acknowledged. The Division of Water and the Division for Air Quality did work on the community's complaints together. The Division believes that Barton Brands is in compliance with all state and federal air regulations and that the draft permit includes all applicable requirements to the facility.

Comment

5. Various stories that were done by a local newspaper columnist or writer on the distillery and also the sewer stories. So this gives you a full range of information pertaining to the whole situation in the community, not just one side.

Division's Response: See response to Comment 7 below.

Comment

6. Then, the -- I think on the distillery stories disc there is also adequate information for a class action lawsuit that has been filed here against Bartons, other people in the community and myself, and two cards for the attorney that handles that lawsuit and some letters from a doctor, my family doctor that wrote in support of a disability claim. Which, this put me on federal disability. I had no prior history before moving back here. I grew up here and it wasn't a problem when I lived here with the air quality, but upon moving into Bardstown it became a problem. I lived for almost two years out in the county, moved right into the close proximity, almost immediately started developing respiratory conditions and digestive conditions. Just slightly under a year ago I moved out and rather than spending six days on my back now, I might spend a day or two on my back from respiratory complications and the rest of the time I'm able to be out and about getting back to a more somewhat normal life. I may not be fully normal again because I may have lost some lung capacity due to this.

Division's Response: Comment acknowledged. See response to Attachment B, Comment 8 and Comment 9 below.

Mr. Armstrong submitted comments via compact discs.

Comment

7. Several copies of news articles written by Bob White of *The Kentucky Standard* were included in Mr. Armstrong's submission. The Division's response is below and the news articles can be found in Attachment D.

Division's response: The Division acknowledges that many news articles have been written about the odor, mold, wastewater treatment, and storm water problems in Bardstown, Kentucky. It is unclear when they were published in The Kentucky Standard, so it is not known if these are current

problems or problems of the past. These articles make it clear that the Bardstown community is concerned about the health and safety of its community; however, these articles do not directly address the current draft air quality permit for Barton Brands. The Division believes that Barton Brands is in compliance with all state and federal air regulations and that the draft permit includes all applicable requirements to the facility. Additionally, Barton Brands is in the process of installing a baghouse on its coal-fired boiler that will reduce emissions from the facility, including emissions of hydrogen chloride.

Comment

8. Mr. Armstrong's submission include copies of a class action complaint and jury demand filed against Barton Brands and a press release regarding the filing. The Division's response is below and the submission can be found in Attachment E.

Division's response: The class action compliant does not mention the Barton Brands draft permit or the Division and the Division does not have a comment regarding this ligation.

Comment

9. Mr. Armstrong's submission included copies of medical information regarding Mr. Armstrong. The Division's response is below and the submission can be found in Attachment E.

Division's response: While Mr. Armstrong believes that the air quality in Bardstown, Kentucky has caused his medical problems, the Division is only delegated the authority to enforce state and federal air regulations, and believes Barton Brands is in compliance with them.

Comment

10. Mr. Armstrong's submission included copies of Bardstown council meeting and a letter of agreement and compliance schedule for the Bardstown Wastewater Treatment Plant and Collection Systems. The Division's response is below and the submission can be found in Attachment F.

Division's Response: The Barton Brands draft air quality permit is not mentioned in these submissions. It appears that the public was concerned about odors from the wastewater treatment system and the City Council has taken steps with the Division of Water to correct them.

ATTACHMENT C

Comments received verbally by Wallace McMullen, Energy Chair, Cumberland Chapter, Sierra Club:

Comment

1. We've been getting phone calls ongoing about the Bartons Plant and the problems it causes for some months now. Our information indicates that this plant is degrading air quality and creating environment impacts the quality of life for people living nearby. We want call for vigorous enforcement by the regulatory officials of all the legal environmental protections available pertaining to Barton Brands and Bardstown. As many of the problems from the plant appear to pertain to wastewater treatment systems as well as air quality, we urge the Kentucky Division of Air Quality officials here for the hearing to also pass on those concerns to the Division of Water Quality. This permit may not provide effective protection of air quality.

Division's response: Comment acknowledged.

Comment

2. Many of the complaints about the Barton Brands operation relate to odor. Clearly, at times it stinks up the neighborhood. Odor control is not mentioned in the draft title V permit. Are we to assume that Kentucky Regulations are totally lacking in dealing with odors? I suggest that – observe that Regulation 401 KAR 63:020 defines "potentially hazardous matter or toxic substances" as "matter which may be harmful to the health and welfare of humans, animals, and plants..." This regulation does establish an authority for addressing odors, and I suggest that it would be appropriate for the Division of Air Quality (DAQ) to apply it in that way. We suggest that this regulation could be applied to this facility to develop odor control, and that so doing would benefit the Bardstown community.

Division's response: Kentucky does have regulations regarding odor. See response to Comment 1 in Attachment A.

Comment

3. This permit assumes a fabric filter baghouse as a pollution control. However, there is no date specified in the permit for when the baghouse will be put into operation. It appears the baghouse could become operational in 2012, and Barton Brands would be in full compliance under this permit. From examining the draft permit, the Application Summary, and the Statement of Basis, it appears the major source of criteria air pollutants at this plant is the coal-fired boiler, which was installed in 1961. The draft permit either sets no limits for this boiler for several types of pollution, or has comparatively high emission limits compared to other permits I have examined recently. One might characterize this boiler as an old clunker that is degrading the neighborhood with high emissions of pollution. The draft permit contains no specific limit for most hazardous air pollutants, no limit for volatile organic compounds, and no limits for Nitrogen Oxides, which cause smog.

Division's response: Barton Brands is voluntarily installing a baghouse on its coal-fired boiler, meaning it is not necessary in order for Barton Brands to be in compliance with this permit. The enforceable limit in the permit was established without the baghouse. The baghouse that is being installed will also include limestone injection, which will reduce emissions of acid gases, particularly of hydrogen chloride. The Division has revised the statement of basis and permit application summary to include this information.

Comment

4. Despite the rather large volatile organic compounds emissions of 1400 tons listed for 2005 I could find no limit for them in the permit. This omission should be corrected.

Division's response: The emissions table in the application summary includes fugitive emissions from the facility. The Emissions Inventory System includes both fugitive and non-fugitive emissions when determining air emissions fees. Fugitive emissions are not included when determining if a distillery is subject to PSD. There is no applicable regulation that can limit fugitive VOC emissions from this facility. The application summary has been updated to include the 2006 emissions from Barton Brands instead of 2005. Barton Brands VOC potential is only 3.4 tons per year when considering non-fugitive emissions.

Comment

5. Nitrogen oxides contributes to smog, which causes asthma, heart problems, and contributes to acid rain. A typical limit now for nitrogen oxides from coal burning boiler is 0.05 pounds per million BTU. The DAQ issued a draft permit for Cash Creek in June with NO_x limit of 0.033 pounds per million BTU, less than the typical limit. But I could find no limit at all for NO_x in this permit. A typical sulfuric oxide limit now for a new coal burning boiler is 0.06 pounds per million BTU. This plant is permitted to emit at a rate 23 times greater, 1.4 pounds per million BTU.

Division's response: The coal-fired boiler does not have a NO_x emission limit, because one does not apply to this unit. The 0.033 lb/MMBtu NO_x emission limit for Cash Creek is the result of a BACT analysis for that facility because its NO_x emissions are subject to 401 KAR 51:017, Prevention of significant deterioration of air quality (PSD), 401 KAR 59:016, New electric utility steam generating units and 40 CFR 60, Subpart Da, Standards of Performance for Electric Utility Generating Units which are not applicable to this unit. The SO₂ limit for the coal-fired boiler is established in 401 KAR 61:015, and Barton Brands is not subject to PSD for SO₂ emissions.

Comment

6. In terms of sulfuric oxides, which causes acid rain and aggravate fine particulate health problems, emission limits in this permit are based on a promise to emit no more than 225 tons per year of SO_x, but Barton Brands emitted 233 tons in 2005. Does DAQ have enough staff to really monitor compliance with this provision? We noted that you had recently gotten authority to out source all the work on your title V permits and the pretext for that was lack of staff. Without enough staff to monitor compliance, will the DAQ know in a timely manner if there is an exceedance?

Division's response: The Division believes that the SO₂ monitoring, recordkeeping and reporting requirements are sufficient to ensure that Barton Brands does not exceed the SO₂ limit of 225 ton per year. The permit requires the facility to keep records of the sulfur and heat content of each shipment of fuel and to record the amount of fuel burned on a weekly basis. The twelve-month rolling total is reported to the Division semiannually. The Division deems this to be adequate to determine the source-wide emissions of SO₂. While, Barton Brands may have emitted 233 tons in 2005 the limit in the previous permit was 249 tons per year. With the renewal permit the Division would have required more stringent monitoring than in the current draft to allow a 249-ton per year limit. Barton Brands has agreed to the 225 ton per year limit.

Comment

7. I raised the question of operational data of the fabric filter baghouse for controlling fine particles above. Also, what to me was very curious in the statement of basis says the baghouse is being installed to help control the poisonous hydrogen chloride emissions. Hydrogen chloride is a gas at all normal stack temperatures. How poison gas emissions will be controlled by a fabric filter system is not explained in the permit of statement of basis. Fine particulates create human health problems, especially asthma and cardiovascular disease, so it is important to control them. A new coal boiler is now typically permitted at a particulate emissions limit of 0.018 pounds per million BTU, and DAQ recently permitted the Trimble plant to emit at that rate. This permit proposes to allow Barton Brands to emit 20 times as much, 0.36 pounds of fine particulates.

Division's response: The PM limit found in the draft permit is established in 401 KAR 61:015. This facility is not subject to PSD review for particulates. Also, see response to Attachment C Comment 5.

Comment

8. I noted no emissions controls or limits specified for the coal handling equipment, haul roads, or related structures at this plant. That seems like a major omission for a plant which is going to burn almost 15,000 tons of coal per year. Coal handling equipment is typically a significant source of fugitive particulate emissions.

Division's response: The coal stockpile, coal loading, coal bunker filling, ash silo loading, ash loadout, and unpaved roads are listed as insignificant units because each process has the potential to emit less than 5 tons per year of a regulated air pollutant based on the emission calculations. These processes are listed in Section C of the permit as insignificant emission units. Although these are listed as insignificant, 401 KAR 63:010, Fugitive emission regulations, still applies. Section C of the permit states, "While these activities are designated as insignificant the permittee must comply with the applicable regulation, not excluding monthly inspection and qualitative visible emissions evaluations."

Comment

9. And in the area of hazardous air pollutants, the most glaring omission to my mind was in the area of not mentioning controlling mercury. Burning almost 15,000 tons per year of coal will release detectable amounts of mercury. We submit that mercury is such a potent neurotoxin that this permit is deficient if it does not contain limits on the amount of mercury that can be emitted.

Division's response: With the emission and operating limits in the draft permit Barton Brands will not be a major source of HAPs and there are no mercury limits in 401 KAR 61:015. Considering the limit on coal, tracking emissions of mercury (estimated at 0.0006 tpy) is not justifiable.

Comment

10. This permit may not be practicably enforceable. Emission limits in this permit are based on a promise to burn no more than 15,000 tons of coal per year. Again, does DAQ have enough staff to really monitor compliance with this provision? Will DAQ know about an exceedance in a timely manner? What if the plant exceeds the permitted amount in a year, and then cuts back in the next quarter? Would the state officials ever know?

Division's response: The 15,000-ton per year limit on coal usage at the facility will be monitored on a monthly basis. The monitoring, recordkeeping, and reporting requirements are similar to SO₂ for the facility (see response to Attachment C, comment 6). Considering the facility generally uses

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around 10,000 tons per year of coal the Division does not foresee compliance being a problem.

Comment

11. The wastewater treatment processing section of this permit is extremely minimal, requiring nothing but untested reporting of the amount of water which flows through the process. This permit should contain requirements which can be practicably enforced.

Division's response: There are no applicable air regulations to this unit.

Comment

12. Again, we call for vigorous enforcement of all the legal environmental protections available pertaining to Barton Brands and Bardstown to improve the quality of the air, the water, and the quality of life for the residents of Bardstown and Nelson County.

Division's response: Comment acknowledged.

ATTACHMENT D

Head: City to charge industry more for waste

Pull quote: "The point of this is for the residents not subsidize anyone, even businesses," Mike Abell, Bardstown City Financial Officer.

BOB WHITE

The Kentucky Standard

Certain industries exceeding limits of wastewater releases into the city's treatment plant will pay more for the service under an ordinance proposed Tuesday night.

Bardstown City Council reviewed a list of new charges for industries using the wastewater treatment facilities.

The new rate schedule could affect several businesses regularly exceeding wastewater treatment plant thresholds for chemical and suspended solid releases, biochemical oxygen demand, and grease and oil releases.

"We're going to make it a little more expensive to treat what they're giving us," Mike Abell, City Financial Officer, said. "It will amount to about 13 percent higher cost for those who exceed our levels regularly."

The cost increases for industrial wastewater treatment was recommended by Hall Environmental, a

company recently hired by Bardstown to assist with wastewater treatment plant operations.

"The point of this is for the residents not subsidize anyone, even businesses," Abell said.

Councilman John Royalty questioned if the increases would cover the cost of extra manpower used to bring the wastewater plant into check once a slug of foreign sewage upset the biological process.

Royalty received no answer to that question, but Abell said the revisions aim to pay for such circumstances.

Earlier this year, Bardstown fined Barton Brands Distilleries \$1,500 for overloading the wastewater treatment plant with a slug of foreign waste.

The fine was made so the city could recoup funds used in bringing the plant back into normal operations.

In a previous interview, Mayor Dixie Hibbs said the fine covered the expense of extra labor needed to get the plant running correctly.

City Council gave a nod to the first reading of the ordinance. A second reading a formal vote on the ordinance is expected to take

place at the Council's Oct. 10 meeting.

Bob White can be reached at 348-9003 Ext. 116 or by e-mail at bwhite@kystandard.com.

BOB WHITE

The Kentucky
Standard

"We're going to have to accept this and go to Bardstown," Bobblett said.

"This is for regionalization to Bardstown"

We kinda prioritized this with Lincoln Trail - our's was the biggest need and they backed us.

Strand Associates, Inc. engineer Mark Sneve said other funding sources were available for the \$5 million project, such as a revolving fund with KIA.

Poll workers from all 26 Nelson County precincts trained on new voting machines made to accommodate needs of disabled voters.

The new machines offer Braille instructions for the blind and other special adaptations to give disabled voters the ability to

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vote without assistance.

An investigation leading to the discovery of a meth lab along KY 245 last week proves Nelson County isn't immune to the plague bathtub speed is reeking across the Midwest.

Head: Bloomfield sewer rates could increase 175 percent

Subhead: Senate OKs funding for sewer line to Bardstown

BOB WHITE

The Kentucky Standard

Bloomfield sewer rates will increase - eventually.

Whether the city opts to construct a new wastewater treatment plant or pump city sewage to Bardstown facilities, rates are projected to increase by as much as 175 percent.

Estimates for rate increases were provided to Bloomfield City Council Monday night by Strand Associates Inc. engineer Mark Sneve who has helped the city plan for a mandatory improvement of its sewer system.

Three years ago, Kentucky's Division of Water informed the city to improve its outdated and over-capacitated wastewater treatment plant.

Using figures for anticipated grant and

loan funding, Sneve projected the city's current residential rate for sewer service would have to increase to pay debt on the \$4.9 million estimated cost of sewer improvements.

The current rate for city sewer service is \$6.28 per 2,000 gallons each month. Average usage is about 4,000 gallons per month, according to City Hall.

"Rates here are the lowest in the Lincoln Trail A.D.D. region," Sneve told the City Council.

According to Sneve's figures, Bloomfield's current sewer rate was 20 percent lower than Elizabethtown's, 30 percent less than Bardstown's and less than half that of New Haven's.

The low cost of service coupled with the projected expense for sewer improvements set the stage for a significant increase, Sneve said.

Some believe the estimated increases will be a shock to some, but a no-brainer to others.

"People have to know rates are going to increase regardless," said Councilman Walt Pozgay after Monday's meeting. "What they need to know is the city is trying to mitigate those increases"

The projected increases came amidst news of state funding

for the sewer project announced by Mayor Ronnie Bobblett.

The pending state budget, passed by the Senate Monday and expected to pass the House of Representatives Tuesday, now includes \$2.3 million for regionalization of Bloomfield's wastewater treatment facility.

During this session of the General Assembly, draft budgets included different amounts for the Bloomfield sewer project.

The first amount included in the budget, described as a "bookmark" by Sen. Dan Kelly, was \$250,000.

During an interview Sunday, Kelly said he was confident the funding would be approved for a Bloomfield-to-Bardstown sewage.

"This is better than we could've all hoped for," Sneve said.

Mayor Ronnie Bobblett agreed.

"This is good news," Bobblett said.

In recent months, City Council has discussed if to construct a new wastewater treatment plant or sewer line to transfer waste to Bardstown for treatment.

Bobblett refrained from telling Council the state funding was only for a waste transfer line to Bardstown, but said

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the funding was for a force main and pump station.

"You wouldn't pump it toward Bardstown, then back," Bobblett said.

While it appears obvious funding for a new treatment plant won't be made available, some say the Council remains split on pumping waste to Bardstown or building a new plant.

"I think the Council is still split 3-3," Pozgay said. "It's about control."

Head: Bloomfield's sewer treatment future decided, again

Subhead: City Council opts to pump sewage to Bardstown

BOB WHITE

The Kentucky Standard

Overturning a previous decision, Bloomfield City Council voted Monday to construct an 11-mile, \$5 million forced sewer main to Bardstown.

The planned line will allow the elimination of Bloomfield's aging and over-capacitated sewer plant. Via the forced main, wastewater will be pumped to Bardstown's sewage system for treatment.

Three years ago, Kentucky's Division of Water put Bloomfield on notice to improve or change

its wastewater treatment methods due to problems at the city sewer plant.

With the decision to construct the new line, Monday's 4-2 vote rescinded the Council's 2005 decision to construct a new, \$5 million wastewater treatment plant in Bloomfield.

The change followed a technical evaluation of the city's sewer treatment options and state earmark of \$2.5 million for the construction of the forced sewer main. Kentucky's biennial budget, passed earlier this year, provided no funding for new sewer plant construction.

Efforts to regionalize existing sewer systems throughout the state has become commonplace in recent years as Kentucky's Division of Water seeks a reduction of smaller wastewater treatment plants.

Mark Sneve, a consultant to Bloomfield on sewer options, said Tuesday it would take at least two years for completion of the forced main project.

"They're not going to get it done real quick because there's the design phase, easement acquisitions and the construction," Sneve said. "The construction phase

will take about nine months."

While the design has not yet begun, the probable route of the new forced sewer main will likely follow closely to U.S. 62 - a slightly longer route than from the previously discussed path alongside KY 162.

Sewer superintendent Ben Long said the city would use highway right-of-ways as much as possible to reduce construction impacts on residents along U.S. 62.

"It's easier to deal with the state than with individual property owners," Long said.

By following the more populated of the two roads, Sneve said the city would have a better chance of adding new customers, thus creating greater revenue to offset the remaining \$2.5 million cost of the project.

Along with added customers, an increase for sewer service is also expected.

During an April meeting of Bloomfield City Council, Sneve projected sewer rates to increase by as much as 175 percent.

The drastic increase would be necessary due to the large expense of line construction and to compensate for Bloomfield's existing low rates.

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In April, Sneve said Bloomfield sewer rates were the lowest among the Lincoln Trail Area Development District's eight-county region.

Bloomfield's current sewer rate is \$6.28 per 2,000 gallons each month. That rate is 20 percent lower than Elizabethtown's, 30 percent less than Bardstown's and less than half that of New Haven's.

Slated to treat Bloomfield's wastewater, Bardstown is also expected to levy charges for service.

While specifics are still being hashed out between the two governments regarding Bardstown-to-Bloomfield charges, it is expected that Bloomfield city government will pay Bardstown a flat rate for sewer service.

Out-of-city sewer customers and new customers could pay Bloomfield and Bardstown sewer fees in the future.

Bloomfield Mayor Ronnie Bobblett commended the Council on the amount of time and effort put into the decision to move ahead with the sewer line project.

"It was a tough decision," Bobblett said. "But the public can't say we didn't research this thoroughly."

Councilman Richard Sweazy, who voted

with the majority, also made note of the importance of a difference of opinion Councilmen Henry Cobble and Mark Mays offered in their votes against the line.

Mays and Cobble preferred the construction of a new city sewer plant versus the forced sewer main.

"I think the difference of opinion forced us to look in depth at this," Sweazy said. "I think we should all be glad to have received some funding for the project."

State Rep David Floyd and Senator Dan Kelly both worked to secure funding in the recently approved state budget for the forced sewer main from Bardstown to Bloomfield.

BOB WHITE

The Kentucky Standard

Bloomfield city council reviewed a draft sewer service agreement Bardstown officials proposed on Wednesday.

The agreement could lead to Bardstown's treatment of waste from Bloomfield, Chaplin, and Fairfield along with future sewer customers gained between the Bardstown and Bloomfield.

The agreement could also eliminate

Bloomfield's responsibility for treating sewage.

Bloomfield has been studying different ways to treat sewage coming into its aged and over-capacitated wastewater treatment plant.

Three years ago, Kentucky's Division of Water put Bloomfield on notice to solve problems at its treatment plant and some feel a solution is getting close.

"Before we make a decision, we want to have all the information," said Bloomfield councilman Richard Sweazy. "I think were getting close."

Sweazy, who also serves on a committee studying remedies to the wastewater treatment plant woes, said the city had a few options to treat its waste.

Preliminary engineer's estimates reflect expected cost of roughly \$5 million to fix the problem regardless of which solution plan is decided on.

Construction of a new Bloomfield wastewater treatment plant would cost an estimated \$4.9 million, while piping sewage to Bardstown's plant could cost an estimated \$5 million.

Bardstown Chief Financial Officer Mike Abell said the city had made some concessions to make

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the piping solution as affordable as possible.

"Bardstown needs them as a customer as much as they need us to treat their sewage," Abell said.

In order to compromise, Abell said Bardstown had dropped its price of treating the wastewater 20 cents per thousand gallons and capped an impact fee to a maximum \$50,000.

The estimated impact fee, also called a system development charge, was previously \$500,000.

Abell said Bardstown was doing what it could to reduce the price of treating the Bloomfield region's wastewater so to make the proposed agreement more attractive.

Other issues, such as the cost of treating large amounts of inflow and infiltration, were also being discussed as ways to bring the cost down.

Bloomfield officials have not yet made a final agreement on the proposal and have yet to have all options detailed.

There's no consensus as to what option Bloomfield city council prefers either.

"I really believe it's sort of split at the moment," Sweazy said.

The wastewater treatment plant serving

Head: Bardstown to outsource sewer sampling

Subhead: City agrees to \$22,000 annual contract with environmental firm

BOB WHITE

The Kentucky Standard

Bardstown leaders acted Tuesday to outsource part of its wastewater treatment program and amend a new set of sewer discharge restrictions.

City Council unanimously agreed to hire Hall Environmental, a Versailles-based firm, to sample industrial discharges and report on the city's sewage pretreatment program at a cost of \$22,000 annually.

City Engineer George Greenwell said the firm's services would help keep sewer operations "afloat" and "in compliance" with state regulations.

The city has been found in non-compliance several times during the past year, according to Kentucky Division of Water records.

City leaders could evaluate the contract after a year or two to determine if the firm's services would be cheaper than

hiring a third person for the sewer department, Greenwell said.

Since the May 13 death of Sewer Department head Jerry Riley, the city's two wastewater treatment plants and programs have been manned by a skeleton crew of two city employees.

Mayor Dixie Hibbs said the environmental firm could help the city's sewer program "find its feet" after Riley's death.

Greenwell agreed sewer operations had stumbled since losing Riley.

"When you're at a two- or three-man operation and one goes away, you don't have much to stand on," Greenwell said.

Along with oversight of the city sewer system, Riley was 95 percent responsible for the city's sewage pretreatment program including the testing of industrial sewage discharges, Hibbs noted.

Testing of industrial waste was recently increased in frequency following problems with a local distillery's pretreatment process.

While the decision to outsource discharge sampling and pretreatment processes was unanimous, the move didn't go without question.

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Councilman John Royalty questioned why only Riley was trained on the pretreatment and industrial discharge sampling procedures.

Greenwell told City Council the sewer department had been undermanned for years.

"We were told to hire five or six people with the new plant. We hired one." Greenwell said. "If we were fully staffed as recommended it might be a different story."

Proper staffing of the sewer department was also questioned.

"Don't you think the day will come when you'll need a department head," Councilman Dick Heaton asked.

Hibbs said it was still unclear whether the city would continue to operate two wastewater treatment plants.

Until future operations were determined, it would be difficult to finalize staffing, Hibbs said.

Stating it was not unusual for a city to outsource a portion of its sewer department, Hibbs felt comfortable with the contract.

"We think it's reasonable," Hibbs said. "This is what we were working toward before Jerry died."

In addition to hiring a firm to

manage a portion of the city's sewer program, City Council also approved a first reading of an amended ordinance relating to sewage discharge composition.

The amendment limits what industries are allowed to discharge into the city's sewer system.

Previously, the city allowed nearly 4 milligrams of nickel per liter of wastewater. The new ordinance will limit nickel discharges to less than 3 milligrams per liter of wastewater.

Maximum daily concentration allowances for selenium, a toxic nonmetal, and molybdenum, a transition metal effective in hardening steel, were also added to the restricted discharge.

Barium, an alkaline metal which has many industrial uses including glassmaking, spark plugs and electrode covering, was removed from the restricted list.

Greenwell described the tightening restrictions as "housekeeping" and said the new elements listed were identified with the industrial discharge sampling Riley had done.

A second reading and final vote on the ordinance amending discharge

restrictions is expected in June.

Head: Mothballing of Town Creek plant

discussed

BOB WHITE

THE KENTUCKY
STANDARD

Bardstown leaders met Thursday to discuss the possible shutdown or modification of Town Creek Wastewater Treatment Plant.

At issue is whether the city could save operational costs by taking the plant off-line and allowing the newer, Lower Beech Fork, plant to treat city wastewater.

"We can treat four million gallons per day at the Lower Beech Fork plant," Mayor Dixie Hibbs said. "Currently, we're treating less than three (million gallons per day)."

Hibbs said the city may never need the seven million gallons of capacity now available with both plants in operation.

Construction of the four million gallon capacity Lower Beech Fork plant began six years ago when the three million gallon capacity Town Creek plant neared its capacity.

Prior to completion of the new plant, a major wastewater producing industry left Bardstown and negated the immediate

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need for additional treatment capacity.

Currently, the city has about four million gallons of extra capacity at the two treatment plants.

Due to the extra capacity, some city officials feel the city may benefit from mothballing Town Creek until additional capacity is needed.

Discussion Thursday revolved around the potential cost and practicality of mothballing Town Creek for an indefinite time, until more capacity is needed.

Committee member and City Councilman Fred Hagan discussed the possibility of shutting down Town Creek and removing equipment from the plant until needed in the future.

"Assuming that the plant would not be utilized for several years, then I feel that the proper way to mothball the facility would be to remove all pumps, large valves, clarifier equipment, bio-tower distribution arm, etc." Hagan stated in a report to the committee.

Hagan said removal of equipment could protect valuable cost at a reasonable cost.

"In any case, I do not feel that the cost would approach a

million dollars," Hagan said.

Others differ in opinion.

"Town Creek is good for years to come," John Royalty, a committee member and City Councilman, said after the meeting. "My problem with mothballing and tearing down the equipment is, who's going to know where this stuff goes?"

Royalty said the city could only "hope" re-assembled equipment would function.

"I don't think we should hope with taxpayers' money," Royalty said.

Friday, Mayor Dixie Hibbs voiced her views on what should be done with the Town Creek plant.

Hibbs said one lagoon at Town Creek could be used for retention of wastewater that would later be sent to the Lower Beech Fork plant.

"We would save manpower," Hibbs said.

Manpower, along with possible electrical and maintenance savings may be possible if operations at Town Creek were limited or stopped altogether, Hibbs said.

Hibbs said the city would need to maintain a discharge permit with the Kentucky Division of Water to accommodate her plan.

"I think the main thing now is to look at when we'll need more than four million gallons (of capacity)," Hibbs said.

No definite figures were available on costs related to mothballing the plant or actual savings possible by taking the plant off-line or modifying its uses.

The committee decided to meet again when more accurate figures could be discussed.

Thursday was the third meeting of a committee formed to research options relating to the two treatment plants.

Hibbs said she first discussed altering the function of Town Creek three years ago.

The delay on making a decision has been frustrating to some.

"We could probably meet on this for the next three months and probably not get anything done," said Francis Lydian, a committee member.

Header: Sewer problem slated for fix

Subhead: Raw waste at city park to be addressed

BOB WHITE

The Kentucky Standard

Bardstown City Council knocked the dust off a six-year-old contract with Strand Engineering last week so work can begin on an extensive

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sewer line upgrade from the north to the south ends of town.

The contract with the engineering firm was first agreed to in 2000, but with changes to the city's wastewater treatment system and plans to treat Bloomfield's wastewater, changes to the original contract needed to be made.

"The sewage line is basically designed, but there have been changes regarding the size of the line," George Greenwell, Bardstown City Engineer, said. "We're basically knocking the dust off the contract."

The upsizing of the line is aimed at reducing what's been described as a "bottleneck" in sewage routing from the Cottage Grove subdivision north of KY 245 to the city's Town Creek Wastewater Treatment Plant.

Problems associated with the "bottleneck" of sewage include, but haven't been limited to, the overflow of raw sewage at Bardstown Community Park, formerly known as Jaycee Park.

Overflows of raw sewage onto the park property have been frequent, especially during periods of rain, according to Mayor Dixie Hibbs.

The area is open to the public and has been treated

regularly with lime. No illnesses have been reported as a result of the sewage overflows at the park.

The multi-million dollar sewer line, estimated between \$2 million and \$3 million upgrade is included in the city's 2007 budget.

Hibbs said the problem should have been fixed years ago. Making changes to the six-year-old contract will cost the city an additional \$15,000 to the original price.

Greenwell said he was unsure when any ground would be broken on the construction portion of the job.

According to Kentucky's Division of Water, Bardstown has received numerous notices of violations pertaining to wastewater releases and treatment, including releases at Bardstown Community Park and several other locations, during the past two years.

Head: State, city work to reduce sewer releases

Subhead: Overflow killed fish last week

BOB WHITE

The Kentucky Standard

A release of sewage from a manhole near Heaven Hill Distillery killed

aquatic life in Rowan and Town creeks Friday according to City Councilman John Royalty.

Royalty said he was alerted to the kill Saturday by two fishermen hunting turtles above the streams' mouths to Beech Fork near the rock dam at U.S. 31E.

"They told me there was a bunch of white foam and dead fish in the stream," Royalty said. "I went down later on and saw a little foam but nothing to be alarmed about anymore."

Royalty said city crews fixed the problem prior to his being notified of the release and said the sewage seemed to have dissipated before affecting aquatic life in the Beech Fork.

Sara Sproles, a Kentucky Division Water supervisor at the Columbia Branch, verified a local sewage release on Friday, but declined to comment on specifics of the incident since details had not been conveyed to the Division's Frankfort headquarters.

Sproles said she was unsure whether the manhole was city responsibility or privately owned.

The incident is one of several recent sewage overflows creating problems for city and state

V-07-024

officials dealing with wastewater.

Earlier this year, residents living near the Town Creek Wastewater Treatment Plant complained of noxious odors, but the recent overflow of sewage proves the city has more woes pertaining to its sewer system than foul odors.

Mayor Dixie Hibbs admitted to sewage overflows, backups and releases in several areas throughout the city.

She said the city was working with state officials to prioritize needed repairs.

"We know we have weaknesses in our system," Hibbs said.

High growth in certain areas has led to bottlenecks in the sewer system, Hibbs said.

Infiltration of stormwater has led to overflows at pump stations and other areas throughout town.

One bottleneck in the system can be found at the Jaycee Park where Hibbs said overflows of sewage have occurred along a sewer line which nears a walking trail at the park.

With more than a few problems to fix in the city's sewer infrastructure, Hibbs said the city was looking for state officials to prioritize repairs

prior to launching a repair schedule.

She said the state's involvement could help the city make long-lasting repairs rather than making spot improvements that may turn obsolete in short time.

"We make repairs for 20 years into the future," Hibbs said.

The city's wastewater woes are not going unnoticed by Kentucky's Division of Water.

Prior to Friday's sewage overflow, Bardstown officials met last week with Division of Water personnel to discuss sewer problems and remedies to be implemented in upcoming years.

Hibbs said headway was made between state and local officials in addressing sewer concerns.

"We're waiting on a letter from the state to tell us what repairs to make," Hibbs said.

David Morgan, director of Kentucky's Division of Water said sanitary sewer overflow into streams and onto the ground was a problem in Bardstown, but not uncommon for cities throughout the state.

"It's their main problem," Morgan said of Bardstown.

He said the city would be addressing

the problem with state oversight.

"The city will have to construct a sanitary sewer overflow plan as part of a compliance agreement," Morgan said. "But this is not uncommon."

As with other cities with overflow problems, part of the sanitary sewer overflow plan will consist of a complete evaluation of the city's sewer system, including the possibility of smoke testing and in-line camera inspection.

Morgan said the city needs to address the sewer overflow problems aggressively, but also said the public held its share of responsibility.

Hibbs noted how clogs in sewer lines could occur with the disposal of non-degradable items like rags down drains leading into sewer lines.

Clogs have led to overflows in the Bardstown sewer system, Hibbs said.

Morgan said public education is as important as notifying cities, like Bardstown, of violations within sewer systems.

"As far as the regulatory part, that comes down to the city," Morgan said. "But everyone has a responsibility."

The state is drafting a compliance

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agreement to which the city will answer with a sanitary sewer overflow plan, Morgan said.

Time and expense of needed for the repairs will depend on what repairs are recommended following a complete assessment of the city's sewer system.

Hibbs said the city was also working with the state to ensure prompt notification of any sewer problems within the city system.

She said some previous incidents had been reported to the Division of Water by citizens who neglected to first notify the city.

"We want to know if someone finds a problem," Hibbs said.

She asked for anyone noting sewer overflows or other problems within the city system to notify city officials promptly.

To report such problems, citizens should call city hall at 348-5947. After hours reports can be made to Bardstown Police dispatch at 348-3121.

Head: Bloomfield leaders split on sewer solution
Subhead: Committee to study fix also split
Pic - Bloomfield's 35-year-old wastewater treatment plant is over-capacitated

largely due to infiltration of stormwater. City leaders are split on how to solve the problem.

BOB WHITE

The Kentucky Standard

BLOOMFIELD - A committee formed to research wastewater treatment solutions for Bloomfield is as split on its decision as is the rest of City Council.

For three years, Bloomfield leaders have discussed solutions for its over-capacitated wastewater treatment plant.

Two solutions have been proposed, but City Council is split on which of the solutions to pursue.

Councilman and committee member Richard Sweazy wants Bloomfield to pump sewage from its troubled wastewater treatment plant to Bardstown.

Bardstown's wastewater treatment plant offers sufficient capacity for treatment of Bloomfield's waste and Bardstown leaders have agreed the idea could be mutually beneficial.

A sewer line between the two cities could also provide sewer services to future developments along the proposed route of the line.

Councilman and committee member Henry Cobble wants a new wastewater treatment plant built for the city to call its own.

While there has been talk among council members of expanding sewer service to Chaplin and Fairfield, it has not been determined if such a plan is feasible.

Bloomfield's wastewater treatment plant currently serves about 400 city customers, according to Public Works Director Ben Long.

The remaining four council members are split on which option to side with.

Council members Liz Gillis and Mark Mays favor building a new plant to serve Bloomfield customers.

Mays said he favors the construction of a new plant over pumping to Bardstown due to potential development a sewer line could bring to areas between Bardstown and Bloomfield.

Gillis offered no reason as to why she favors a new city treatment plant, but said she wanted figures to explain the costs of both proposals.

Council members Walt Pozgay and Tina Long sided with Sweazy to pump city sewage to Bardstown for treatment.

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"It only makes sense to pump," Tina Long said. "Keep in mind that we've been a water customer of Bardstown for years."

Pozgay said he favored pumping waste to Bardstown due to tightening Environmental Protection Agency regulations.

Sweazy said building a new plant in Bloomfield would accomplish little else than satisfying a governmental ego.

"The only (reasons) I've heard for keeping it here is for control and pride," Sweazy said. "All other (reasons) point to pumping it to Bardstown."

Sweazy said town leaders needed to think on a larger scale and of what would best for the future when making their decision on wastewater treatment.

"We're not just a small community," Sweazy said. "We're a part of a global society."

Mayor Ronnie Bobblett said he'd rather pump wastewater to Bardstown.

"I'm scared to build it here," Bobblett said.

Bobblett agreed with Sweazy about tightened EPA restrictions threatening the operation of a small municipal wastewater treatment plant.

Ben Long, who operates the Bloomfield wastewater treatment plant daily, said pumping wastewater to Bardstown was more economical for the future.

Ben Long also felt there hadn't been any solid reasons supporting the construction of a new Bloomfield wastewater treatment plant.

Ben Long said the primary problem with wastewater treatment at the existing plant was infiltration and inflow of stormwater and groundwater.

Infiltration is a common problem for sewer treatment plants that often leads to plants operating above their rated capacities.

Either of the two proposed solutions is expected to cost about \$5 million and funding has not yet been secured for any improvements.

Mark Sneve, an engineer working with Bloomfield leaders to research wastewater treatment solutions, advised both sides to consult state legislators on funding for each of the proposed solutions.

City attorney Jim Willett summed up the issue.

"You have two proposals equal in cost. You're never going...to know what funding is available until you pick one

and ride it hard through the process," Willett said.

Willett said Sweazy's reasoning to pump waste to Bardstown had wisdom behind it and believed there was better opportunity for grant funding for regionalization of existing sewer services.

"But I have no opinion," Willett said.

Sara Sproles, Kentucky Division of Water Environmental Control Supervisor for the Columbia Regional Office, advised the regionalization and pumping waste to Bardstown as the best option.

Sproles has inspected the Bloomfield plant for the Division of Water and has a working knowledge of the plant's shortfalls.

"Would we propose regionalization? Yes, we would," Sproles said.

Sproles said environmental regulations were getting more stringent every year and said the cost of operating a plant in Bloomfield could grow higher in the future.

"You have to ask what this is going to cost down the road," Sproles said.

Head: City staff: Town Creek sewer plant should

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stay open**Subhead: Council still considering closure**

Pull quote: "The unknown is what makes this decision so difficult. This is just not as clear as a lot of decisions." – Bardstown Mayor Dixie Hibbs on closing the Town Creek wastewater treatment plant

BOB WHITE**The Kentucky Standard**

If Mayor Dixie Hibbs had her druthers, treatment operations at Town Creek sewer plant would have been cut several years ago when the Lower Beech Fork plant was brought online.

With a 4 million gallon capacity, the newer plant is capable of treating all the city's wastewater.

The extra capacity was thought necessary at one time.

When the plant was constructed a local manufacturer was producing a significant amount of wastewater.

When that manufacturer, Bird Vinyl, pulled out of town, the need for extra capacity was lost.

During the past few months, a sewer and water committee consisting of local officials has discussed the possible closure or mothballing of Town Creek.

Costly repairs are needed at the 40-

year-old plant, including the reconstruction of one wall of a lagoon.

Electricity and manpower needed for operation of the plant have added to Hibbs' and others' reasoning for mothballing the plant, but no decisions have yet been made.

During a May meeting of the sewer and water committee, Bardstown Chief Financial Officer Mike Abell offered his recommendation for the plant.

Abell clarified the decision to close or not to close the plant was that of money and not one of odors or problems at the plant.

"This is a financial question," Abell said. "All the staff recommends no."

Abell guessed the city would need the extra capacity within 8-15 years and said closing the plant would only escalate costs, rather than save.

Abell estimated the cost of adding equal capacity now available at the Town Creek plant to the Lower Beech Fork plant to range between \$4-5 million.

In previous interviews with The Kentucky Standard, City Engineer George Greenwell and late Sewer Superintendent Jerry Riley agreed

with Abell's recent recommendation.

Even with the recommendation of city staffers and department heads, committee members and city leaders aren't sure what to do.

"What about the water balance?" Councilman and committee member Fred Hagan asked.

Hibbs chimed in quickly to note the correlation between city water usage and wastewater produced.

"Last year we maxed out at 7 million gallons of water, and that produced three million gallons of wastewater," Hibbs said. "Unless we take Louisville Water (Company) customers into our sewer, we won't need that much sewer for a long time."

In previous interviews with The Kentucky Standard, Hibbs said she was unsure if the city would ever need 7 million gallons per day wastewater treatment capacity.

The overkill of capacity, coupled with the expenses of operation of the Town Creek plant makes Hibbs and others wonder if partial closure or mothballing of the plant might be cheaper.

There have been predictions of savings of up to \$100,000 annually

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with the plant's closure.

But then there's Abell's prediction of the need for extra capacity within the next two decades.

Councilman Dick Heaton sided with Abell in keeping the plant open being a matter of dollars and sense.

"How can we save with closing the plant?" Heaton asked.

Heaton said if everyone was somewhat correct with their ballpark figures, the city might save \$1.2 million only to turn around and spend the \$4-5 million Abell predicted increasing capacity at the Lower Beech Fork plant.

"I don't follow you," Heaton said.

Hagan recommended the city study the prospect of closing the Town Creek sewer plant more.

Even if the old plant were taken off-line, Hibbs said at least one lagoon would still be used for holding of excess wastewater prior to sending it to the Lower Beech Fork plan

In a previous meeting of the sewer and water committee, some discussion revolved around mothballing some of the plant's equipment and storing it until later needed.

No decisions were made regarding such action.

Monday, Hibbs said the committee and council were

still mulling the idea over and weren't rushing into anything.

Hibbs said she trusted and valued the opinions of city staff on the difficult decision of whether to close the plant.

"There are all kinds of angles to this," Hibbs said.

New, incoming industries, quantity of waste they may produce, large residential developments to come and future maintenance of the plant are just some of the variables at play in deciding if to close the plant.

"The unknown is what makes this decision so difficult," Hibbs said. "This is just not as clear as a lot of decisions."

Head: City doesn't need a stinky reputation

BOB WHITE

The Kentucky Standard

No one wants to hear how much their town stinks.

But when the air turns sour with the stench of city waste, it's time to talk.

Last week, the Edgewood community realized it was time to act and voiced their odorous concerns about Town Creek wastewater treatment plant to Bardstown leaders.

It was definitely time for someone to speak up about the smell.

And speak they did.

Some worried about the health of their children with such unbearable odors. Some spoke with sarcasm. All were

annoyed and no city leader disagreed with them about the annoying odor.

According to city leaders, steps will be taken to reduce the nuisance.

When you live in a quaint, historic community such as Bardstown, it's nice to not spoil it with the stench of modern development and industry.

Of course, development happens. It's even encouraged by a joint city-county agency that works to better the lives of residents in the area and the tax bases of local governments so infrastructure can be maintained.

If that sounds like a Catch-22, it sort of is.

But it doesn't have to be that way.

While a wastewater treatment plant will never smell like a bouquet of roses, a plant can operate with minimal odor most of the time.

What appears to be hurting the local plant's effectiveness in reducing odors are large loads of industrial waste not anticipated at the plant.

When the sewage eating bugs overdose on a slug of industrial waste, the plant stumbles, the process fails and people complain because of the smell.

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That doesn't have to occur.

When an operator of most anything is aware of what's ahead, steps can be taken to reduce negative impact.

Through a gentlemen's agreement between the city and certain local industries, it has become the practice for industries to notify treatment plant operators of large doses of industrial waste headed for the plant.

Maybe that agreement has become a little too gentle if it no longer works.

If there are no real rules in place dictating notification of large loads of industrial waste - what can be done? Who can the city blame but itself?

If sewage standards need to be tighter on local industries to lessen noxious odors, let's do it.

Industries are recruited to the city to improve quality of life, not to lessen it.

Noxious odors are covered by a city nuisance ordinance.

It's time to practice what's preached.

Head: City moves to protect stream quality
Subhead: New ordinance sets drainage control fees, bonds

BOB WHITE **The Kentucky Standard**

What falls from the sky generally ends up in a pond, lake or stream.

With that stormwater also flows trash, oil and sediment carried away as runoff.

Bardstown officials are looking to reduce the amount of foreign matter flushed into local waterways.

During its regularly scheduled Council meeting, city leaders gave nod to a revised drainage control ordinance aimed at curbing construction runoff and the establishment of a stormwater management fund.

The ordinance is an answer to an unfunded federal mandate forced upon states and local governments several years ago.

In 1999, the U.S. Environmental Protection Agency began Phase II of a stormwater permitting program geared at reducing the amount of pollutants entering waterways from communities of 10,000 or greater population.

Phase I of the program, addressing the same problem in cities of 100,000 or more people, began nine years earlier.

The program is an unfunded federal mandate communities of 10,000 or more must comply with as

part of the 30-year-old Clean Water Act.

Though many communities, including Bardstown, have failed to attain full compliance with the stormwater permitting program, steps are being taken to bring the city closer to what the EPA wants.

"They set the bar pretty high," City Engineer George Greenwell said. "As far as getting everything done, I don't know if that will ever happen."

As part of the program, communities are supposed to address six minimum control points including:

- Public education and outreach
- Public involvement and participation
- Illicit discharge detection and elimination
- Construction site stormwater runoff control
- Post-construction site stormwater runoff management in new development and re-development
- Pollution prevention and good housekeeping for city operations

"They're making good progress on many things," said Maleva Chamberlain, Kentucky's Division of Water spokesperson. "The city is doing a good job with the housekeeping and street-cleaning and

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they've had more (stormwater) meetings than most other communities."

While Bardstown has done well in some areas of stormwater management, Chamberlain said the city hasn't met all the EPA standards.

"And that's real typical," Chamberlain said.

Public opinion of and funding for the stormwater management program are two areas Bardstown has not succeeded in, she said.

Greenwell hopes the ordinance proposed Tuesday helps the city better address its stormwater management shortfalls.

The ordinance requires builders and property owners to post a refundable \$500 bond and stormwater management plans prior to any construction, whether it be a shed or a commercial building.

In addition, the ordinance requires encroachment fees to be paid to the stormwater management fund.

Those fees range from \$10 for decks and storage buildings to \$100 for buildings of 5,000 square foot or greater.

"It's a little fund," Greenwell said. "But this helps glue some of those six points together."

Funds collected through the fees and

bonds are to be used for the acquisition of stormwater management facilities, cost involved with administering the program, enforcement, billing and costs relating to public education.

No other fees have yet been established relating to stormwater management in Bardstown, but future additional fees are a possibility as the city seeks funding to keep up with the federal mandate.

A proposal to establish a fee schedule based on building sizes was previously turned down by City Council.

Greenwell said the proposal could have cost property owners a couple dollars extra each month.

Chamberlain said smaller governments have had tough times imposing drainage user fees on residents.

"Some communities are having a real fight over that," she said. "But they need to get it funded."

Chamberlain said it was important to stop pollutants from entering local waterways in order to protect aquatic life and water treatment operations downstream.

"We need to stop it where it starts in order to save all the little critters," she

said. "Part of the Clean Water Act was to sustain fishable and swimmable waters. We need to add to that, the importance of protecting water treatment facilities. City Council unanimously approved the first reading of the revised drainage ordinance.

A second reading, finalizing the ordinance, is expected at the May 23 City Council meeting.

Head: City fines Barton \$1,500 for brandy spill

Subhead: Release contributed to odor, toxins in stream

BOB WHITE

The Kentucky Standard

The City of Bardstown has fined Barton Brands Ltd. \$1,500 for causing an upset to the city's wastewater treatment system.

In documents obtained by The Kentucky Standard through an open records request, the penalty is shown to follow an accidental release of about 5,000 gallons of brandy into a pretreatment lagoon at the distillery.

"When it hit the lagoon it went from an active system to a dead one," said Bardstown Sewer Superintendent Jerry Riley of the release.

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"It went totally septic."

Riley said the release of brandy likely contributed to a foul odor experienced by residents of the Edgewood subdivisions beginning in March.

The release of brandy into the pretreatment lagoon occurred between Feb. 27-28.

While the release of brandy was temporarily contained at the distillery, it eventually caused an upset to the Town Creek Wastewater Treatment Plant and resulted in the release of toxins into local waterways, documents stated.

That release of toxins into a local stream violated the city's sewage discharge permit, records show.

Riley said the plant was "pretty much" able to compensate for the septic waste coming into the city treatment facility from the distillery with pre-chlorination, added aeration and dosing the waste with sodium nitrate.

"But sometimes it's just not enough," Riley said. "It could have been much worse."

The distillery curtailed its load to the sewage treatment plant and slowed down production to allow the sewer plant to catch up to the large

dose of waste, Riley said.

Bardstown Mayor Dixie Hibbs said the \$1,500 penalty against Barton Brands would help the city regain expenditures relating to the incident.

If the city were to be penalized by the Division of Water as a result of the incident, Barton Brands could be held responsible, Hibbs said.

Hibbs and Riley said distillery officials were cooperating with the city in addressing wastewater concerns.

A different fee structure relating to industries and other changes to the Bardstown Sewer Use Ordinance were also being considered, Riley said.

The existing ordinance provides for the penalty against Barton Brands.

Councilman John Royalty, the first city official to identify Barton Brands as a possible source of odors experienced by residents of the city's south side, said the \$1,500 fine was a step in the right direction.

"This is what I'd consider a baby step to let, first of all, the citizens know that we're concerned with community health," Royalty said. "It should send

a message to other industries that they need to watch what they put into the sewer system."

Royalty was unaware of Barton Brands' penalty, issued April 20, until told of the penalty by The Kentucky Standard.

Royalty said he was upset with the lack of communication between City Hall and City Council members.

Officials with Barton Brands did not respond to phone calls relating to this story or two previous stories relating to an odor problem.

Head: Input sought on distillery pollutants case
Subhead: Attorneys meet for first time

Photo - Matt

Armstrong, the son of one person claiming to have become ill from distillery fallout, distributed information to Bardstown residents Thursday about a class action suit filed against Barton Brands in July.

BOB WHITE

The Kentucky Standard

As attorneys representing both sides of a complaint against Barton Brands Ltd. met for the first time Thursday, plaintiffs went door-to-door throughout

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Bardstown to rally support for their environmental claims against the distiller.

A class action suit filed in U.S. District Court against Barton Brands Ltd. and Constellation Brands, Inc. July 11 claims the company's Bardstown distillery is contaminating the air and water with particulate fallout, wastewater and noxious odors.

In a written statement, Barton Brands reps disputed the claims in July.

Barton Brands representatives have not responded to questions from The Kentucky Standard since issuing the written statement.

Louisville attorney Matt White, who represents plaintiffs suing the distillery, said the initial meeting with Barton Brands' legal counsel revolved around scheduling of court proceedings.

Before the case can proceed as a class action lawsuit, a judge must certify the plaintiffs as a class of people allegedly affected by the claims. White said attorneys on both sides agreed to have a hearing regarding the certification within six months.

"Otherwise, there was just routine discussions on

scheduling," White said.

As attorneys met to discuss court proceedings, Matt Armstrong, son of lead plaintiff Dallas Armstrong, spent Thursday afternoon circulating information about the suit against Barton Brands to residents living near the distillery.

Among the paperwork distributed was a survey and a contingent fee agreement for residents wanting to join as co-plaintiffs to the suit.

Dallas Armstrong said he avoids Bardstown because of particulate fallout he claims worsens a breathing condition. He attributes the fallout to Barton Brands distillery.

"The response has been really good," Dallas Armstrong said of the door-to-door effort to rally support for the suit.

Six plaintiffs are listed on the lawsuit filed against the distillery. White said all people claiming to have been affected by the supposed fallout would not be listed as plaintiffs, but their input was important to his argument.

"We've had about 50 surveys turned back in and at least 100 people called about the suit," White said.

State air quality officials dispute claims made in the suit and believe the distillery to be in compliance with air quality standards.

"It's mold," said John Lyons, director of Kentucky's Division of Air Quality, regarding a black substance found throughout Bardstown in a previous interview.

In July, Lyons said he was unaware of any air quality violations on part of the distillery.

White agrees mold exists in the city, but claims samples taken more recently would prove soot is emitting from the distillery.

He said test results were not yet available from the lab.

While state officials dispute air quality claims made by plaintiffs, the city has taken action against the distillery for environmental concerns.

Bardstown fined Barton Brands earlier this year for upsetting the city's wastewater treatment process with a brandy spill.

The distillery was also blamed for contributing to a noxious odor experienced in the Edgewood and Buttermilk neighborhoods.

Head: Distiller sued for fallout, odors
Subhead: Class action suit pits residents against Barton Brands

Pull Quote : "There are a lot of people here with respiratory and digestive disorders. I want it stopped." Dallas Armstrong, former Bardstown resident.

BOB WHITE
The Kentucky Standard

Despite having family and friends within the city, Dallas Armstrong doesn't hang around Bardstown much these days.

He said his doctor advised against it.

Armstrong, 45, has respiratory ailments he believes stem from emissions and particulate fallout from Barton Brands' distillery in Bardstown.

Since April, he's been living away from his Kennet Avenue home in an attempt to gain relief from his respiratory problems.

But distance from the bourbon industry isn't the only form of relief he seeks.

Tuesday, Armstrong was joined by five Bardstown residents in filing a class action lawsuit against Barton Brands in an effort to stop what the plaintiffs consider to be a local health hazard.

"There are a lot of people here with respiratory and digestive disorders," Armstrong said. "I want it stopped."

The suit, filed in Kentucky's Western District of U.S. District Court, claims fallout from Barton Brands' smokestack contaminates the air while liquid waste from the distillery contributes to noxious odors experienced by residents living near the distillery.

"The fallout is a black, sooty particulate matter that covers their homes, cars, street signs... you name it," said Matt White, one of several attorneys representing the plaintiffs.

Along with the nuisance the black sooty matter creates for residents wanting clean property, the fallout also contributes to nausea, headaches and respiratory problems, the suit claims.

White said noxious odors relate to a sewage pre-treatment lagoon at Barton Brands - an item of recent discussion at Bardstown City Council meetings.

Barton Brands' Chicago, Ill., office issued a written response to allegations being made in the suit and in recent complaints made by residents to

city leaders relating to noxious odors.

"Barton Brands is aware that some residents of Bardstown are concerned about odors that are possibly related to the plant's distilling operations and has been communicating with city officials regularly in an effort to address these concerns," the statement said.

In May, the distillery was fined by Bardstown in response to an upset of the city's wastewater treatment plant and following numerous complaints from residents living near the distillery of a lingering, foul stench.

The upset of the city sewer system related to an unusually large amount of distillery waste impacting the sewage treatment system.

The city fined the distillery \$1,500 to recoup some of its cost of dealing with the upset.

Armstrong described the city's fine against Barton Brands as a "slap on the wrist," but said the fine has been the only action against the distillery amidst many complaints.

Along with Barton Brands being the root cause of his respiratory ills, Armstrong said city, state and federal

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agencies were partly responsible due to their lack of reaction.

"I blame them all," Armstrong said. "I've notified them, but I keep getting these ... stories that they have inadequate information to do anything with. They've turned a blind eye and a deaf ear to this situation."

White said his firm collected samples of the black matter for lab analysis, but added the case would rely heavily on existing Environmental Protection Agency studies.

White did not disclose what his independent experts determined the black substance to be.

Some experts believe it to be nothing abnormal for the Nelson County region.

John Lyons, Director of Kentucky's Division of Air Quality, said complaints relating to the black, sooty substance and distilleries were nothing new at his office.

"We have received quite a few complaints over the years on emissions from distilleries," Lyons said.

The majority of complaints Lyons receives relate to black mold growing on outside structures.

University of Kentucky Department of Agriculture tests determine the black mold as a common filamentous fungi, common throughout the state, according to Lyons.

Sugars released during the bourbon aging process provide a steady source of food for the mold.

"Most people have it on the sides of their houses," Lyons said.

Harmless mold or sooty fallout, the suit describes the substance as a health hazard to those living within a mile and a half of Barton Brands distillery.

Odors from the wastewater pretreatment lagoon and smokestack emissions relating to the distillery's coal-fired burner were undoubted health concerns, according to White.

"The biggest thing is that we get the industry to stop polluting," White said.

In its written statement Barton Brands declared its belief of being compliant with federal, state and local air and water quality regulations...

The statement also said Barton was willing to work with the city to address residents' concerns.

Head: Residents grow tired of sewer odors

Subhead: Questions arise over distilleries' role in problem

BOB WHITE

The Kentucky Standard

Something stinks in Bardstown.

About two dozen residents pleaded for relief from noxious odors and questioned the operation of Town Creek wastewater treatment plant Tuesday during a Bardstown City Council meeting.

While residents claim sewer odors are nothing new, many say smells are becoming more pungent and occurring more often as years go by.

"It's been about every night for the past four or five weeks," said Clyde Waggoner, a Creekwood Drive resident. "Why is it happening at night? It's like someone's timing it."

Edgewood resident Don Campbell noted 11 recent dates in months when odors had become "unbearable."

A letter signed by residents formalized the complaints.

"We believe that the odor in our neighborhood comes from this wastewater treatment plant and is a result of a lack of compliance with EPA regulations," the letter stated.

The residents are not mistaken about environmental non-compliance and violations, but

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whether or not those problems resulted in the odors is not clear.

Town Creek wastewater treatment plant, the older of two city sewer plants, has violated Kentucky Division of Water regulations numerous times in recent years, according to information obtained through an open records request by The Kentucky Standard.

A January 2006 inspection determined the plant violated state regulations due to an inoperative pump needed to reduce suspended solids, an excessive amount of ammonia found in the plant's discharge and a faulty lagoon wall.

The plant was also found to be non-compliant with Division of Water regulations because of a lack of ammonia removal at the plant.

A 2005 bio-monitoring failure was also noted in an inspector's January report.

Violations and notices of non-compliance are not uncommon at the Town Creek plant.

A September 2003 description of violation stated the plant failed to "properly operate and maintain all facilities and systems of treatment and control..."

That description stemmed from a six-month review of the facility resulting in several violations due to excessive, regularly occurring amounts of ammonia and suspended solids. To remedy the 2003 problem city engineer George Greenwell said the city spent about \$350,000 dredging most of the sludge from the Town Creek plant's two lagoons last year.

While notices of non-compliance and violations at the Town Creek plant exist, Greenwell said the violations did not relate to the bothersome odors.

"The influent has been out of whack," Greenwell told residents.

Greenwell said heavy loads of incoming industrial wastewater could upset the plant's operation and lead to odors like those recently experienced.

Residents questioned if wastewater from local distilleries could be part of the odor problem.

"If they dump stuff on us, it's going to smell," Greenwell said, referring to distilleries.

In a Wednesday interview Greenwell explained that alcohol-laden wastewater could deplete oxygen needed for the treatment process and lead to odors.

"In small amounts, it's OK," Greenwell said. "In too big amounts, it upsets everything."

Lack of oxygen in the treatment process could lead to noxious odors until the plant's balance was restored, Greenwell said.

The city charges distilleries on volume of wastewater treated and does not regulate any amount of alcohol contained in the waste.

That could change.

"We may need to limit their discharge," Greenwell said. "What we'll try to do is look at what they're sending us. If that may be part of the problem, we'll talk to them."

Calls to Barton Brands, a distillery named by residents during the meeting, were not returned.

During Tuesday's meeting, residents agreed something needed to be done to fix the problem.

"If the root cause is someone dumping illegal waste, we need to get on them," Waggoner said.

Greenwell said distilleries were likely in compliance regarding their discharges, but said some things may need changing.

While the odors are bothersome for some, they're scary to others.

Creekwood resident Chris King, a father

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of two young children, said he worried about long-term health effects of such odorous vapor.

"I hope this won't snowball," King said. King likened the local problem to stories he'd heard of entire communities falling ill after years of exposure.

Mayor Dixie Hibbs agreed the odors were becoming unbearable and told residents waste could be diverted to the Lower Beech Fork sewer plant in an attempt to avoid the odor problems.

"I don't know the cost of shipping it down river," Hibbs said. "We can see if that helps."

Further discussion on steps to take to remedy the matter will be discussed during an upcoming committee meeting of city officials.

A recent meeting of the same committee revolved around the possible mothballing, or partial closure of the Town Creek wastewater treatment plant.

Greenwell said Wednesday that he didn't feel closure of the plant would be economically responsible.

In a previous interview, Councilman John Royalty agreed with Greenwell's opinion, but said some changes needed

to be made at the plant.

"We need someone in a supervisory position to step up and say this is what needs to be done," Royalty said. "We have the experience down there. We know what to do. We just need to do it."

Royalty said the Town Creek plant could be operated effectively with proper maintenance and responsible leadership.

The Town Creek wastewater treatment plant is between Old Gilkey Run Road and Creekwood Drive.

Head: Claims against distillery raises brows, draws attention

Subhead: Air Quality reps find mold, not soot

BOB WHITE

The Kentucky Standard

Dozens of inquiries each day - that's how environmental attorney Matt White describes the response to a class action suit filed against Bardstown distiller Barton Brands last week.

"We're receiving a ton of calls," White said.

The suit filed last week in U.S. District Court claims the distillery is responsible for causing a black sooty fallout that is a nuisance for property

owners and a potential health hazard for people living and working in downtown Bardstown.

White, a partner of Louisville's Gray and White Law, said the amount of interest in the claims being made gave support to the suit's credibility. He welcomed inquiries from anyone wanting to learn more of the allegations made against the distillery and of relief sought through federal court.

Numerous calls have been received at the office of The Kentucky Standard relating to the suit.

While the volume of inquiries reflects people's interest in the black substance covering Bardstown properties, it may not reflect any validity of the claims made within the suit, state officials said.

John Lyons, director of Kentucky's Division of Air Quality, said the state had no evidence of the sooty fallout described by plaintiffs.

"That is not soot, it is mold," Lyons said.

Samples of the black substance collected in 2003 were determined to be a common mold in tests conducted by the University of Kentucky, Lyons said.

The results of those tests were made

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available in December 2005.

Lyons doubted any significant fallout as described in the suit. The suit alludes to the black substance being related to a coal-fired burner and smokestack used at the distillery.

"The department has conducted nine tests since August 2003 - three in direct responses to complaints. At no time have we found any violations (at Bartons)," Lyons said.

Scheduled annual testing of the smokestacks showed no evidence of emissions violations, Lyons said.

But more recent test results differ from those of the state, White said.

Samples of the black substance covering houses and other property in Bardstown have been determined by his team of investigators to be soot, not mold. He said additional samples have been taken in recent weeks.

"The typical defense for distilleries is that this is a ubiquitous mold," White said. "The fact of the matter is that this is fallout from the distillery. There is mold, but this is soot."

Soot or mold, health concern or nuisance,

people living near the distillery are interested in the lawsuit.

"Living in Bardstown for five years caused us health problems and discomfort," said Diane Johnson, a former resident of 903 W. Stephen Foster Ave. in Bardstown.

Johnson said she was told the black substance on her property was a harmless mold she and her husband would have to deal with.

After experiencing headaches and sore throats, the Johnsons moved to Spencer County.

Johnson said she would be following the case.

In a written statement submitted to The Kentucky Standard last week, Barton Brands' Chicago office acknowledged concerns of Bardstown residents and expressed a willingness to work with Bardstown leaders to resolve concerns.

Head: Black substance a nuisance and a worry
Subhead: Bardstown residents blame industry for mold, soot

Pic 1: Betty Riggs and her sister Terry Harned are among scores of Bardstown residents upset with a black substance appearing

on their homes and other property. Riggs, who believes the problem is directly related to the bourbon industry, said distillers needs to do something to reduce the problem.

Pic 2: Betty Riggs showed a sample of the black substance accumulating on her van. She said the black substance, thought to be mold, is a nuisance.

BOB WHITE
The Kentucky Standard

Whether it is mold or soot, a black substance blanketing Bardstown's city center is a nuisance to many and a worry to some.

A lawsuit filed as a class action against Barton Brands Inc. this summer seeks relief from the distillery for emitting noxious odors, particulate fallout and an annoying black substance covering many homes, cars and other surfaces in Bardstown.

The lawsuit calls the black substance soot, but bourbon experts and state air quality officials believe the black substance blanketing Bardstown is mold.

Results of recent tests done on samples of the substance

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performed on behalf of plaintiffs have not been made available to The Kentucky Standard.

According to Kentucky's Division of Air Quality, the substance was found to be mold in tests performed five years ago.

Regardless of what the substance is appearing on homes and cars and other surfaces throughout Bardstown, it is viewed as a nuisance by many.

"It's more than that," Terry Harned said. "I think it's affecting the pneumonias I get."

To Harned, who has lived with her two sisters in Edgewood since returning to Bardstown from St. Louis two years ago, the black substance is a nuisance because of its appearance and something to worry about because of pre-existing health issues.

Harned has respiratory troubles she claims have gotten worse since moving to Bardstown.

"St. Louis had a terrible mold problem, but nothing like this," she said.

Harned said she suffered from pneumonia eight times last year. She experienced pneumonia only once while living in St. Louis for several years, she said.

Along with her respiratory ails, Harned and her sisters, Betty and Irene Riggs, are frustrated that much of the work done renovating their shared home hasn't kept its new appearance.

A year ago the sisters wrapped their home in vinyl trim and new gutters, but it's hard to see the newness due to the black substance clinging to it.

"You can wash it off, but it doesn't do any good," Betty Riggs said.

Riggs said the black substance returns soon after cleaning it off.

The sisters are upset with the black substance and worry of its effect on their health.

A quarter-mile west of the sisters' Rosewood Drive home, another pair of sisters share Riggs' and Harned's concerns.

Bonnie Cross moved in next to her sister six months ago after relocating to Bardstown from California.

She rents a duplex unit next to her sister, Elizabeth Yildirim, on Pine Village Drive off Barton Road.

The sisters know the black substance as a nuisance and worry about its effect on their health since both have weakened

immune systems due to lupus.

Yildirim described mysterious rashes of which doctors can't pinpoint a cause. Cross, who arrived in Bardstown with a pre-existing lung disease, said she was "absolutely" sure of the mold's negative affect on her respiratory system.

"I was doing good until I moved here," Cross, a former nurse, said. "This is mold and I know what it does."

The sisters also share the nuisance experienced by the sisters in Edgewood.

Yildirim and Cross's duplex was recently cleaned of the black substance, but they can tell the fix won't last forever.

Cross said a neighbor's vinyl-clad home has blackened substantially more with the substance during the six months she's lived in Bardstown.

The sisters on Pine Village and Rosewood Drive are not alone.

Following the filing of the lawsuit against Barton Brands Inc., The Kentucky Standard received dozens of calls regarding the black substance covering property in Bullitt and Nelson counties.

Of those callers, as many people were concerned with their health as they were with the nuisance of the black substance.

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Louisville Attorney Matt White, who represents plaintiffs seeking relief from Barton Brands Inc. for their claims, reported more than 50 inquiries to the suit from residents concerned with their health and the troublesome black substance.

Plaintiff Dallas Armstrong said the amount of attention drawn to the black substance since the suit was filed gives his claims against the distillery validity.

Armstrong believes the bourbon industry should take steps to reduce problems attributed to distillation and aging of bourbon.

"This isn't about money," Armstrong said. "This is about doing what's right. Something needs to be done."

Armstrong moved from the Maple Hill neighborhood since filing the lawsuit against Barton Brands Inc.

He said the relocation was recommended by his physician.

Dr. Mark Corbett, a certified allergy specialist based in Louisville, said mold was often blamed for problems where it isn't necessarily the cause of.

"Mold seems to be the panacea for all sorts of problems," Corbett said.

"Certainly, there are people it can affect, but it's not always as bad as it's made out to be."

Factors such as spore size, proof of it being in the air in substantial quantities and patient sensitivity must be determined prior to blaming mold on a person's condition, he said.

Head: Angels' share feeds a nuisance

Subhead: Black substance a mold fed by aging bourbon

BOB WHITE

The Kentucky Standard

To bourbon experts, it's known as the "angels' share" - evaporating product from bourbon barrels stored in warehouses throughout Nelson County.

But the heavenly emission feeds something more and more becoming a nuisance and a worry to some Bardstown residents.

It's a black mold known to bourbon experts as torula fungus and it annoys many Bardstown-area property owners due to its unending growth on homes and cars. It is also a worry to some residents with respiratory concerns.

In a previous interview, Kentucky Division of Air Quality director John Lyons described the mold as a "naturally

occurring" common "filamentous fungi" found throughout Kentucky.

The growth of black mold is exacerbated by the mass production and aging of bourbon, he said.

Lyons based his comments on five-year-old tests performed by the University of Kentucky.

Distilleries do not emit mold, but the bourbon aging process does feed it, according to bourbon experts.

Heaven Hill Master Distiller Parker Beam said, depending on climate and location in a warehouse, as much as two thirds of a bourbon barrel's contents could evaporate during the aging process.

No definite amounts of evaporation can be determined, Beam said.

"The hardest thing about the angels' share is the number of variables," he said.

Regardless of the amounts lost to the "angels' share," the belief is that evaporating water and sugar becomes food for the torula fungus after settling to the ground, Beam said.

With Bardstown being surrounded by warehouses filled with aging bourbon from Barton Brands, Jim Beam and Heaven Hill, the amount of mold growing in the

V-07-024

city is of no surprise.

"The more barrels there are in the aging process, the more torula," Beam said.

He said mold growth around distilleries was nothing new and something discussed by insiders for years.

"I can remember my father talking about mold growing," Beam said. "It's been around for as long as I can remember."

The growth of mold on homes and other property has caused "quite a few complaints" against distilleries in recent years, Lyons said.

Since Kentucky's Division of Air Quality does not regulate mold, the cabinet limits its response to mold complaints, he said.

While the environmental cabinet does not take action against mold such that occurring around distilling operations, it does warn people to take action against mold when they find it in and around their living spaces.

According to Kentucky's Environmental and Public Protection Cabinet, mold can lead to skin rashes and flu-like symptoms for some individuals. It can also aggravate asthma and other respiratory problems,

according to the EPPC Web site.

"If you can see mold growth... you have a problem," the Web site states.

Most symptoms attributed to mold will subside with the elimination of the mold.

When it comes to eliminating the source of food for mold in Nelson County and other bourbon-producing areas, Beam said that may be impossible without shutting down the bourbon industry.

"To seal warehouses and filter the air would be cost prohibitive," Beam said. "I don't know if anything can easily be done to eliminate (the mold)."

Head: Industries to pay more for Bardstown sewer service

Subhead: New rates a financial safeguard for residential users

BOB WHITE

The Kentucky Standard

New limits and rates for industrial discharges Bardstown leaders passed Tuesday will cost some area businesses more if they continue to release certain chemicals and compounds into the sewer system.

The amended rate schedule establishes higher fees for industries releasing ammonia, nitrogen, suspended solids and

other waste affecting biochemical oxygen demand and operations at the city's two wastewater treatment plants.

Parameters for barium, molybdenum, nickel, selenium and common grease were tightened in a similar amended ordinance passed this summer.

City Financial Officer Mike Abell said the changes to rates and discharge limits could result in some industries paying up to 13 percent more for sewer service if they continue to release high volumes of industrial waste into the wastewater treatment system.

The tightened restrictions and rates will affect about 16 businesses including distilleries, plastics companies and automotive parts suppliers.

During a previous meeting of Bardstown City Council, Abell said the amended rate schedule was needed to ensure residential users weren't paying for industrial impacts on the wastewater treatment process.

"The point of this rate change is for city residents not to subsidize anyone else's service, not even businesses'," Abell said. "We're going to make it a little more expensive

V-07-024

to treat what they're giving us."

The rate changes for industrial waste were advised by Hall Environmental shortly after the Versailles firm was hired this spring to assist with the city's sewer operations.

The city retained the company's services to sample industrial discharges and report on the city's sewage pretreatment program at a cost of \$22,000 annually.

City officials said the firm would help keep the city's sewer system in line following the death of Jerry Riley, the city's longtime wastewater treatment plant operator.

Prior to Riley's death, the city's Town Creek Wastewater Treatment Plant was plagued with a release of distillery waste that upset operations and led to many odor complaints from residents living near the plant and the distillery. The release also led to the city fining the distillery \$1,500.

Testing of industrial waste releases into the sewer system increased in frequency following those complaints.

"We're trying to make the industries aware of the costs associated with treatment," George Greenwell, Bardstown City Engineer, said. "The higher the loading (of chemicals) the harder it is to treat."

Head: City takes steps against odor

Subhead: Barton Brands accused as source

BOB WHITE

The Kentucky Standard

Bardstown officials are taking steps to eliminate a fowl smell in the Edgewood and Creekwood communities.

That's what was told to residents who approached city leaders during a sewer and water committee meeting Tuesday.

In recent months, residents have pointed fingers at the city's wastewater treatment plant along Old Gilkey Run Road on the city's south side.

But city officials dispute that as a source of the odor.

"I will not admit to any odors coming from the plant," said Jerry Riley, wastewater treatment plant operator.

Mayor Dixie Hibbs welcomed residents to tour the plant day or night to smell the facility firsthand.

"We think we know where it is coming from and we're working to control the source," Hibbs told residents.

Hibbs did not reveal where she believed the smell originated during the meeting.

In a Wednesday interview with The

Kentucky Standard, Hibbs said the city had been in discussions with Barton Brands distillery regarding concerns of the odor, but would not disclose specifics of the talks.

"Our intent is to do more testing more often," Hibbs said.

Thursday, Councilman John Royalty described the distillery as a "big contributing factor" to odor problems experienced by residents of Bardstown's south side.

Royalty was the only city official to allude to Barton Brands as a potential source of the odor during Tuesday's public meeting.

Royalty said he attempted to visit the distillery one morning after a resident called with an odor complaint.

"I was called out about 8 a.m. so I went to our plant to check it out. It wasn't our system," Royalty said. "So I went over to Barton's and they wouldn't let me in."

Royalty said his nose led him to the distillery.

Calls made Wednesday and Thursday to Barton Brands distillery were not returned.

Kentucky Division of Air Quality spokesman John Lyons said a complaint had been

V-07-024

filed earlier this year relating to the distillery, but said it related to mold growing in the city and not the odor being experienced by residents.

Information obtained by The Kentucky Standard through an open records request reflects only one complaint made against the distillery since Jan. 1, 2005 mentioning an odor problem.

The complaint also mentioned "mold" and "soot" as concerns.

Lyons said talks with the complainant revolved around the black mold growing in town rather than the odor.

"We respond to odor complaints," Lyons said.

Lyons said investigators were equipped with air monitoring equipment but was unaware of any health concerns relating to distillery waste and its treatment.

While talks with complainants have focused on the black mold growing through town, Lyons said the Division of Air Quality would

investigate odor complaints as well.

Waste from the distillery settles in an outdoor lagoon prior to being treated at the city's wastewater treatment plant.

Kentucky's Division of Water spokesperson Maleva Chamberlain said recent odor problems may have been rooted in a faulty aerator at the distillery's lagoon.

After the aerator was replaced and activated, the lagoon contents stirred, possibly causing the smell, Chamberlain said.

"The odor should be decreasing and disappear soon," Chamberlain said.

But the replacement of an aerator may not be a permanent solution to the odor problem.

"Regarding the degree of odor, it may make a difference," Hibbs said.

Hibbs said the city would be monitoring waste effluent from local industries more often so to know what's being discharged into the

city's wastewater treatment plant.

A reevaluation of a sewage ordinance was also planned, Hibbs said.

Royalty feels the city is responding to the problem a little too late.

"Administration after administration, Council after Council has been aware of this," Royalty said. "Why does it take 10-plus years to say this is a problem? That's what bothers me. You can't worry about an industry's feelings. Community health is the main interest."

Lyons said the air in Bardstown had not been monitored for quality because the Division of Air Quality has "had no reason to test" it.

"If a complaint is made, we'll investigate it," Lyons said.

Bob White can be reached at 348-9003 Ext. 116 or by e-mail at bwhite@kystandard.com.

ATTACHMENT E

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

DALLAS R. ARMSTRONG,)	
DEBBIE ATWELL,)	
DAVID BOBBITT,)	
JAMES H. BROCKMAN,)	Case No. _____
PHYLLIS A. BROCKMAN,)	
IRMA LIVERS and)	
All others similarly situated)	Jury Demand

Plaintiffs

vs.

BARTON BRANDS LTD., d/b/a BARTON BRANDS, Co.

and

CONSTELLATION BRANDS, Inc.

Defendants

CLASS ACTION COMPLAINT AND JURY DEMAND

NOW COME the Plaintiffs, Dallas R. Armstrong, Debbie Atwell, David Bobbitt, James H. Brockman, Phyllis A. Brockman, and Irma Livers on behalf of themselves, and all others named in this Complaint, and all others similarly situated, by and through their attorneys, Gray and White, Matthew L. White, Macuga & Liddle, P.C., Peter W. Macuga, II and Tad Thomas (hereinafter "Plaintiffs") and state in support of their Class Action Complaint against Defendant, Barton Brands Ltd., d/b/a Barton Brands, Co., and Constellation Brands, Inc. (hereinafter "Defendants"), as follows:

JURISDICTION & VENUE

1. Jurisdiction of this Court is invoked pursuant to diversity in accordance with 28 U.S.C. § 1332(a)(1) because the amount in controversy exceeds the sum of \$75,000 exclusive of interest and costs. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a)(2).

PARTIES

2. Defendant, Barton Brands Ltd, d/b/a Barton Brands Co., (hereinafter “Barton”) is a foreign corporation whose home office is located at 55 E. Monroe Street Suite 2600, Chicago, Illinois 60603.
3. Barton Brands is in the business of producing, distributing, marketing and selling alcoholic “spirits” beverages.
4. Barton does and at all times mentioned in the Complaint, did business in Kentucky through the production, distribution, marketing and selling of spirits.
5. Barton owns and operates a distillery located at 300 Barton Road, Bardstown, Kentucky 40004
6. Defendant, Constellation Brands Inc. (hereinafter “Constellation”) (NYSE: STZ and STZ.B), is a foreign corporation located at 370 Woodcliff Drive Suite 300 Fairport, New York 14450.
7. Constellation is in the business of producing and marketing alcohol brands and is the self-proclaimed parent company of Defendant Barton.
8. Upon information and belief, Constellation does, and at all times mentioned in the Complaint, did business in Kentucky through their ownership, control and direction of Barton.
9. At all times relevant hereto, Plaintiff, Dallas R. Armstrong, resided at 224 South Kennett Avenue, City of Bardstown, Commonwealth of Kentucky.

10. At all times relevant hereto, Plaintiff, Debbie Atwell, resided at 231 South Kennett Avenue, City of Bardstown, Commonwealth of Kentucky.
11. At all times relevant hereto, Plaintiff, David Bobbitt, resided at 218 Rosewood Drive, City of Bardstown, Commonwealth of Kentucky.
12. At all times relevant hereto, Plaintiff, James Brockman, resided at 604 B. W. Stephen Foster, City of Bardstown, Commonwealth of Kentucky.
13. At all times relevant hereto, Plaintiff, Phyllis A. Brockman, resided at 604 B. W. Stephen Foster, City of Bardstown, Commonwealth of Kentucky.
14. At all times relevant hereto, Plaintiff, Irma Livers, resided at 212 Rosewood Drive, City of Bardstown, Commonwealth of Kentucky.

NATURE OF THE ACTION

15. This action is necessary to protect the property rights of Plaintiffs, and all others similarly situated, which have been unreasonably interfered with resulting from the physical invasion of Plaintiffs' person and property by fallout particulate contaminants, and odors thereby causing material injury to Plaintiffs' person and property through negligence, gross negligence, nuisance, and trespass.
16. Plaintiffs bring this action on behalf of themselves and all others who have similarly suffered from fallout particulate, air contaminants and odors. The reason for not joining all potential class members as Plaintiffs is that, upon information and belief, there are hundreds of potential plaintiffs, thereby making it impractical to bring them before the Court. All Plaintiffs reside in or within one and a half miles (1.5) miles of the Edgewood and Creekwood communities which are within one and a half (1.5) miles of Defendants and which contain several hundred homes.
17. There are many persons who have been similarly affected and the question to be determined is one of common and general interest to many persons constituting the class to which

Plaintiffs belong, and the group is so numerous as to make it impracticable to bring them all before the Court, for which reason Plaintiffs initiate this litigation for all persons similarly situated pursuant to Federal Rule of Civil Procedure (FRCP) 23 (Kentucky Rule of Civil Procedure (CR) 23).

18. Issues and questions of law and fact common to the members of the Class predominate over questions affecting individual members and the claims of Plaintiffs, Dallas R. Armstrong, Debbie Atwell, David Bobbitt, James H. Brockman, Phyllis A. Brockman, Irma Livers. and all others similarly named and those similarly situated, are typical of the claims of the Class.
19. The maintenance of this litigation as a Class Action will be superior to other methods of adjudication in promoting the convenient administration of justice.
20. Plaintiffs, Dallas R. Armstrong, Debbie Atwell, David Bobbitt, James H. Brockman, Phyllis A. Brockman, Irma Livers., and all others similarly named and those similarly situated, and the law firms of Gray & White, Macuga & Liddle, P.C., and Tad Thomas attorney at law, will fairly and adequately assert and protect the interests of the Class.

GENERAL ALLEGATIONS

21. On occasions too numerous to list, Plaintiffs' person and property including Plaintiffs' neighborhood, residences, motor vehicles, and yards, were physically invaded by fallout particulate, air contaminants and odors.
22. The fallout particulate, air contaminants and odors which invaded Plaintiffs' person and property originated from Defendant's facility located at 300 Barton Road, City of Bardstown, Nelson County, Commonwealth of Kentucky (hereinafter the "facility"). At its facility, the

Defendants operate a distillery.

23. The Defendants, as part of their normal business operations, utilizes an outdoor lagoon where waste from the distillery settles prior to being treated at the Bardstown wastewater treatment plant. It is Plaintiffs' information and belief that this lagoon contributes, in part, to the odors experienced by Plaintiffs. Further, the Defendant, as part of its normal business operations, employs various processes which cause particulate, or fallout, to blanket the surrounding neighborhood.
24. The Defendants knew or should have known that some of the processes it utilizes in its normal business operations create fallout, air contaminants and odors.
25. The Defendants are within one and a half (1.5) miles of Plaintiffs and Plaintiffs' properties and Defendants' discharges have invaded and caused substantial damage to, substantial loss of use of, and substantial interference with Plaintiffs and Plaintiffs' properties.
26. The air contaminants, fallout and odors discharged by Defendant are harmful and noxious and have caused substantial damage to, substantial loss of use of, and substantial interference with, Plaintiffs and Plaintiffs' properties.
27. The fallout types emitted by the Defendants' facility have been described by residents of the surrounding neighborhood as a very heavy black particulate, black powder or black soot that requires constant cleaning, that makes Plaintiffs prisoners in their homes and has precluded them from full use and enjoyment of their properties.
28. It is Plaintiffs' information and belief that Defendants either constructed or directed the construction of the facility and exercises exclusive control and/or ownership over the

facility.

29. As a direct and proximate result of Defendants' negligence in constructing and/or engineering and/or designing and/or operation and/or maintenance of the facility, Plaintiffs' person and/or property have been invaded by particulate, contaminants and odors.
30. The invasion of Plaintiffs' person and property by particulate, air contaminants and odors has caused Plaintiffs to suffer injuries.
31. The invasion of Plaintiffs' person and property by particulate, air contaminants and odors has caused Plaintiffs to suffer and/or aggravated nausea, headaches and respiratory problems.
32. The invasion of Plaintiffs' property by particulate, air contaminants and odors has or will cause diminution in the market value of Plaintiffs' property and has interfered with Plaintiffs' use and enjoyment of their property.
33. The invasion of Plaintiffs' person and property by particulate, air contaminants and odors has caused Plaintiffs to suffer injuries including, but not limited to exposure to horrific particulate, air contaminants and odors. Defendants are vicariously liable for all damages suffered by Plaintiffs, caused by Defendants' employees, representatives and agents, who, during the course and scope of their employment, allowed or failed to correct the problem which caused particulate, air contaminants and odors to physically invade Plaintiffs' person and property.

NUISANCE

34. The allegations contained in Paragraphs 1-33 are re-alleged and incorporated as if referenced herein.

35. In the operation of its facility, Defendants utilize various processes that impact the surrounding neighborhood.
36. In the operation of their facility Defendants discharges fallout, air contaminants and odors which are extremely invasive.
37. Defendants, by and through current technological processes and current engineering standards, could and should preclude the discharge of any particulate, fallout and odors onto Plaintiffs' properties.
38. A condition or activity which unreasonably interferes with the use of property is a nuisance.
39. Plaintiffs did not consent for particulate, air contaminants and odors to physically invade their person and property.
40. By causing particulate, air contaminants and odors accumulated and controlled by Defendants to physically invade Plaintiffs' person and property, Defendants substantially and unreasonably interfered with Plaintiffs' use and enjoyment of their property.
41. Defendants' substantial and unreasonable interference with Plaintiffs' use and enjoyment of their property constitutes a nuisance for which the Defendants are liable to Plaintiffs for all damages arising from such nuisance, including compensatory, injunctive and exemplary, relief.

NEGLIGENCE AND/OR
GROSS NEGLIGENCE

42. The allegations contained in Paragraphs 1-41 are re-alleged and incorporated as if referenced herein.

43. In constructing, maintaining, operating, controlling, engineering and/or designing the facility, Defendants have a duty to exercise ordinary care and diligence so that particulate, air contaminants and odors do not invade Plaintiffs' person or property.
44. Defendants knowingly breached their duty to exercise ordinary care and diligence when it improperly constructed, maintained, operated, engineered and/or designed the facility and knew, or should have known, that such actions would cause Plaintiffs' person and property to be invaded by particulate, odors and air contaminants.
45. As a direct and proximate result of the failure of Defendants to exercise ordinary care, Plaintiffs' person and property are physically invaded by particulate, air contaminants and odors.
46. As a direct and proximate result of Defendants' negligence in operating and/or constructing and/or engineering and/or maintaining its facility, Plaintiffs' person and property are exposed to and invaded by particulate, air contaminants and odors.
47. As a direct and proximate result of the invasion of Plaintiffs' person and property by particulate, air contaminants and odors, Plaintiffs have suffered injuries.
48. As a direct and proximate result of Defendants' release of particulate, air contaminants and odors, the Plaintiffs have suffered mental anguish, suffering, anxiety, embarrassment, humiliation, distress and agony.
49. The conduct of Defendants in knowingly allowing conditions to exist, which caused particulate, air contaminants and odors to physically invade Plaintiffs' person and property, constitutes gross negligence as it demonstrates a substantial lack of concern for whether an

injury resulted to Plaintiffs.

50. Defendants are vicariously liable for the negligence and/or gross negligence of its employees, representatives, and agents, who, during the course and scope of their employment, allowed or failed to correct the problem which caused particulate, air contaminants and odors to physically invade Plaintiffs' person and property.

51. Defendants' gross negligence entitles Plaintiffs to an award of punitive damages as their conduct is susceptible of being interpreted by reasonable people as demonstrating an irresponsible attitude toward safety, and as being willful, intentional, reckless, and/or malicious.

TRESPASS

52. The allegations contained in Paragraphs 1-51 are re-alleged and incorporated as if referenced herein.

53. Defendants intentionally, recklessly, willfully, wantonly, maliciously and negligently failed to construct, maintain and/or operate the facility which caused the invasion of Plaintiffs' person and property by particulate, air contaminants, odors and other airborne pollutants on dates too numerous too mention.

54. As a direct and proximate result of the foregoing conduct of Defendants, particulate, air contaminants, odors and airborne pollutants accumulated upon, entered upon, settled upon and physically invaded Plaintiffs' person and property.

55. It was reasonably foreseeable that Defendants' failure to properly construct, maintain and/or operate the facility could result in an invasion of Plaintiffs' possessory interests.

56. As a further direct and proximate result of the foregoing conduct of Defendants, Plaintiffs suffered substantial damages to their persons and property as alleged herein.

57. The particulate, air contaminants, odors and airborne pollutants which entered, settled and

physically invaded Plaintiffs' land and property interfered with Plaintiffs' interests in the exclusive possession of Plaintiffs' land and property and constituted a continuous trespass upon Plaintiffs' property.

58. Plaintiffs did not consent for particulate, air contaminants, odors and other airborne pollutants to physically invade their land and property.

59. Defendant's actions, which resulted in the trespass upon Plaintiffs' land and property were, and continue to be, intentional, willful, and malicious and made with a conscious disregard for the rights and safety of Plaintiffs, entitling Plaintiffs to compensatory, exemplary, injunctive and punitive relief.

60. WHEREFORE, named Plaintiffs on behalf of themselves and putative class members respectfully demand:

- a. A class be certified;
- b. Judgment against the Defendants and in favor of the named Plaintiffs and putative class members for;
- c. Compensatory damages subject to proof;
- d. Punitive damages in accordance with KRS Section 411.184 and Section 411.186 and as otherwise supported by the evidence of the misconduct of the Defendants, and being that amount necessary to "punish and discourage" Defendants "and others from similar conduct in the future";
- e. Reasonable attorneys' fees;
- f. Interest until the date of judgment;
- g. Post-judgment interest at the rate of 12% per annum until paid;
- h. Costs of maintaining this action;
- i. For any and all further relief, including injunctive and equitable relief, to which

named Plaintiffs and putative class members may be entitled;

- j. Opportunity with leave of Court to amend this Complaint to conform to the evidence; and
- k. Trial by jury on all issues so triable

Respectfully submitted,

GRAY & WHITE

By: _____
Matthew L. White
Mark .K. Gray
Attorney for Plaintiff
1200 PNC Plaza
500 West Jefferson Street
Louisville, KY 40202
(502) 585-2060
(502) 581-1933 fax

Tad Thomas Attorney at Law
239 South Fifth Street
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Louisville, KY 40202

Of Counsel
Macuga & Liddle, P.C.
Peter W. Macuga, II
975 E. Jefferson Avenue
Detroit, MI 48207-3101
(502) 392-0015

V-07-024

The Law Firms of Gray & White, Matthew L. White, Macuga & Liddle, P.C, Peter W. Macuga II and Tad Thomas Announce Legal Notice: Class Action Suit against Barton Brands Ltd., d/b/a Barton Brands Co. and Constellation Brands, Inc.

Business Editors/Legal Writers

LOUISVILLE, Ky.--(BUSINESS WIRE)—July 11th, 2006—Attorneys Matthew L. White, Gray & White, Peter W. Macuga II, Macuga & Liddle, P.C. and attorney Tad Thomas, announced today that a class action was filed in United States District Court Western District of Kentucky on behalf of hundreds of residents of the Edgewood, Creekwood and surrounding communities of Bardstown Kentucky that have suffered from noxious odors, air contaminants, fallout particulate and the unreasonable interference of their property rights as a result of the conduct of Barton Brands Ltd., d/b/a Barton Brands Co. and its parent company Constellation Brands, Inc. which operates a distillery located at 300 Barton Road, Bardstown Kentucky 40004.

Copies of the complaint filed will be available from the Court, or can be viewed on Gray & White's web site at: <http://www.grayandwhitelaw.com>.

The action titled Dallas Armstrong et al vs. Barton Brands Ltd., d/b/a Barton Brands Co. and Constellation Brands, Inc., is pending in the United States District Court Western District of Kentucky.

The complaint alleges that Barton Brands Ltd., d/b/a Barton Brands Co. and Constellation Brands, Inc. as part of their normal business operations discharged fallout particulate contaminants and noxious odors into the atmosphere and local waterways. The fallout and odor invaded Plaintiffs' person and property. This invasion has unreasonably interfered with Plaintiffs' use and enjoyment of their property, caused diminution in the market value of Plaintiff's property and has caused them to suffer injuries including nausea, headaches and respiratory problems.

If you wish to discuss this action or have any questions concerning this notice or your rights or interests, **please contact Matthew L. White at Gray & White 502-585-2060 or via e-mail at mattwhiteatty@aol.com.**

ATTACHMENT F



ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Ernie Fletcher
Governor

Department for Environmental Protection
Frankfort Office Park
14 Reilly Road
Frankfort, Kentucky 40601
www.kentucky.gov
September 1, 2006

LaJuana S. Wilcher
Secretary

Lloyd R. Cress
Commissioner

Dallas Armstrong

The Honorable Dixie Hibbs, Mayor
City of Bardstown
220 North 5th Street
Suite 1
Bardstown, Kentucky 40004

Re: City of Bardstown WWTP and Collection System
KPDES No.: KY0021237
AJ# 3245
Nelson County, Kentucky

Dear Mayor Hibbs:

As discussed at our meeting of July 25, 2006, enclosed please find two (2) copies of a Letter of Agreement to address violations associated with the City of Bardstown Wastewater Treatment Plant (WWTP) and collection system. Please review the document to ensure that it is consistent with your understanding of the commitments the City agreed to at the meeting. If there are any discrepancies, please contact Mr. Tom Gabbard, Field Operations Branch Manager by Friday, September 8, 2006. Otherwise, please sign both copies and return them to my attention. I will then sign the documents and return one to you. All submittals required by this agreement should be sent to DOW's Facilities Construction Branch, Municipal Planning Section, unless specified otherwise in the document.

DOW looks forward to working with the City of Bardstown as we move forward with resolving the issues addressed in this agreement. If you have any questions, please contact Tom Gabbard at (502) 564-3410.

Sincerely,

David W. Morgan

David W. Morgan
Director
Division of Water

C: George Greenwell, City Engineer
Tab Farthing, Hall Environmental Consultants
Cindy Leaser, Hall Environmental Consultants
Field Operations Branch Central Office
Columbia Regional Office
Facilities Construction Branch

3/31/07
Report #
20071027
Off. Boone

BARDSTOWN COMPLIANCE AGREEMENT

* * * * *

LETTER OF AGREEMENT AND COMPLIANCE SCHEDULE
City of Bardstown Wastewater Treatment Plant and Collection System
220 North 5th Street, Suite 1
Bardstown, Kentucky 40004
KY0021237
AI# 3245

Following record reviews, on-site inspections and meetings between the Division of Water (DOW) and the City of Bardstown (hereinafter, the City) and its consultants, the City was found to be in violation of Kentucky Water Quality statutes and regulations.

Representatives of the City agree, as evidenced by their signatures on this document, to perform the remedial measures contained herein by the dates specified. Failure of the City to comply with this agreement may result in referral of this matter to the Division of Enforcement, which may result in civil penalty assessments.

Below are the violations at issue in this matter:

VIOLATIONS:

KRS 224.70-110	General prohibition against water pollution
401 KAR 5:015	Failure to properly report all overflows, bypasses, etc.
401 KAR 5:031	Degradation of the waters of the Commonwealth
401 KAR 5:035 & 045	Failure to provide a minimum of secondary treatment
401 KAR 5:055	Discharge w/out a KPDES permit
401 KAR 5:065	Violations of KPDES permit conditions, including, but not limited to: duty to comply, duty to mitigate, and proper O&M.

REMEDIAL MEASURES

SSOP – A Sanitary Sewer Overflow Plan (SSOP) shall be submitted by the City no later than October 15, 2006, in accordance with the attached SSOP Outline guidance document, revised July 14, 2006, by the Division of Water. The SSOP shall be updated quarterly, and such Quarterly SSOP Updates shall be due by the 15th of the month following each calendar quarter, beginning April 15, 2007. Quarterly SSOP Updates shall provide information regarding the abatement and elimination of sanitary sewer overflows

City of Bardstown Compliance Agreement
August 2006
Page Two

(SSOs), including any corrective action taken with respect to manhole repair or rehabilitation, pump station repair or rehabilitation, correction of leaks, and repair or rehabilitation of any other portion of the City's sewer collection system. Quarterly reports shall contain an estimate of the volume of wet weather flow removed with respect to each corrective action taken. In addition to Quarterly reports, the City shall, beginning January 15, 2008, submit an Annual SSOP Update, which shall address overall progress, including volume estimates at each overflow point and for the collection system as a whole, in addressing wet weather flow throughout the Bardstown system and any satellite systems which convey wastewater to the Bardstown system.

Any proposed changes in scheduled corrective actions and prioritization of overflow points to be eliminated shall be addressed in the Annual SSOP Update, and upon receipt of DOW approval of any revisions to the SSOP, those revisions shall be deemed to be incorporated into the SSOP.

SORP - The SSOP shall contain a Sewer Overflow Response Protocol (SORP) which addresses the timely and effective methods of (1) responding to, cleaning up, and minimizing the impact of all overflows, including unauthorized discharges; (2) reporting the location, volume, cause and impact of all overflows, including unauthorized discharges, to DOW and any other regulatory agencies to which such reports are required; and (3) notifying the potentially impacted public. Once the SORP is approved by DOW, the City shall review the SORP annually, on the anniversary date of DOW approval, and propose changes as appropriate subject to DOW approval. The City shall provide copies of future updates to the SORP to the Columbia Regional Office of DOW within fifteen (15) days of receipt of DOW approval.

Sewer Use Ordinance - The City shall, by September 15, 2006, submit to DOW a copy of its current sewer use ordinance, highlighting the portions which pertain to and prohibit illicit discharges to the City's sewage system, including discharges from roof drains and downspouts, basement sumps, floor drains, patio and driveway drains, yard drains, leaks in private laterals, and other illicit connections to the sanitary sewer system. If the City's sewer use ordinance is deemed by DOW to be inadequate in addressing illicit connections to its sewage system, the City shall, within sixty (60) days of receipt of notification from DOW that the sewer use ordinance is inadequate, revise its sewer use ordinance to adequately address such illicit connections and submit the revised sewer use ordinance within thirty (30) days of the revision for DOW review and approval. The City shall, upon receiving notification from DOW that its sewer use ordinance adequately addresses illicit connections to its sanitary sewers, notify its customers within forty-five (45) days of the existence of the sewer use ordinance and of DOW's mandate that the sewer use ordinance be properly enforced. Within sixty (60) days of receipt of such

City of Bardstown Compliance Agreement
August 2006
Page Three

notification from DOW, the City shall commence enforcement of its sewer use ordinance with respect to illicit connections to its sanitary sewers.

SSSES – The City shall perform and submit to DOW by March 1, 2007, for review and approval, a Sewer System Evaluation Survey (SSSES).

Stream Cleanup – The City shall remove depositions of solids and other objectionable materials from receiving streams at any points where unpermitted discharges have occurred (e.g., overflows). Such stream cleanup shall be done in accordance with Best Management Practices to avoid additional damage to and degradation of those streams.

KPDES permit effluent violations – The City is in Significant Non-Compliance (SNC) for Total Ammonia Nitrogen, Total Suspended Solids, and 5-Day Biochemical Oxygen Demand and Whole Effluent Toxicity. Additionally, other numeric violations of permit limits have occurred at the WWTP. The City shall comply with the terms and conditions of KPDES Permit No. KY0021237. By September 30, 2006, the City shall submit a corrective action plan to the Columbia Regional Office describing the actions to be taken to bring the wastewater treatment plant and sewage system into compliance with its KPDES permit and a schedule of when those actions are proposed to be completed. The City shall implement the corrective action plan as approved by DOW. DOW reserves the right to comment on and request revisions to the corrective action plan at any time during the life of the plan.

Overflow reporting – The City shall report all overflows and other releases to DOW by the most rapid means available, in accordance with 401 KAR 5:015. During normal business hours, M-F 8:00 am-4:30 pm, contact the Columbia Regional Office at (270) 384-4734 or after hours and weekends the 24 hour Environmental Response Line at (800) 928-2380.

O&M Plan – The City shall, by November 1, 2006, submit to DOW for review and approval a plan fully describing its operation and maintenance procedures for its sewage collection system. This O & M plan shall document all standard operating procedures with respect to tasks performed by treatment operators and other staff working in the wastewater system, including the collection system.

MS4 permit compliance- The city must comply with the terms and conditions of their Phase II MS4 Permit No. KYG200037.

REGULAR COUNCIL MEETING MINUTES

4-11-06

7:30 P.M.

The City Council met in a regular session in the Council Chambers with P. Hibbs and the following Councilmembers:

Councilmember Lydian
Councilmember Sheckles
Councilmember Royalty
Councilmember Simpson
Councilmember Heaton
Councilmember Hagan

Others present were: Chief Financial Officer Abell, City Civil Engineer City Attorney Donan, Police Chief Marksbury, Kentucky Standard reporter Bob W reporter Tom Isaac, and several residents from the Edgewood neighborhood.

EDGEWOOD NEIGHBORHOOD ODOR PROBLEM

Don Campbell, 228 Edgewood Drive, was recognized as spokesperson for the Subdivision group and he requested that something be done about the sewer odor in the neighborhood. Greg Blevins, 243 Edgewood, distributed a letter from a resident stating that during the last several years, the odor had occurred frequently and more pungently. The letter concluded with a request that the Council consider the matter important and continue to use the best effort possible to resolve the issue. A lengthy discussion followed in which the Mayor explained that the City had been reviewing various possibilities in order to correct the situation by bypassing the Town Creek Wastewater Treatment Plant and sending it to the Fork Wastewater Treatment Plant, monitoring the type of wastes that were being sent into the sewer and checking on the aeration process. The Council asked about a Peer Review which was scheduled and City Civil Engineer Greenwell reported that it would be available at the end of April. Additional information on the cause of the odor could be available at that time. Councilmember Lydian asked that a Water and Sewer meeting be scheduled with Wastewater Treatment Plant Superintendent Jerry Riley.

An additional comment was received from Randall Burba, 216 Hollywood Drive, who reported that the fungus caused by the local distilleries.

BID TAB - MINI DERRICK

Action on the Mini Derrick Bid Tab was tabled until the next City Council meeting.

FIRST READING - REZONING REQUEST #2188 APPROVAL- NELSON COUNTY PUBLIC LIBRARY

Rezoning Request #2188 was presented from the Nelson County Public Library for the development plan approved with Zone Change #1599 in order to use the former site for a public library facility and to demolish portions of the old hospital and construct additions for the property located at 201 Cathedral Manor (Lots 1 and 2, Flaget Memorial Hospital Subdivision) in the City of Bardstown. UPON MOTION OF COUNCILMEMBER HAGAN, DULY SECONDED BY COUNCILMEMBER LYDIAN AND CARRIED, THE RECOMMENDATION FROM THE PLANNING COMMISSION WAS APPROVED.

FIRST READING - REZONING REQUEST #2189 APPROVAL - RICK MOLYNEAUX-APPROVAL

Rezoning Request #2189 from Rick Molyneux to rezone approximately 0.57 acres located at 1444 North Third Street (US 31E) (Lots 9-13, Fairgrounds Villa Subdivision) in the City of Bardstown was then presented. UPON MOTION OF COUNCILMEMBER SHECKLES, DULY SECONDED BY COUNCILMEMBER HEATON AND CARRIED, THE RECOMMENDATION FROM THE PLANNING COMMISSION WAS APPROVED.

HORIZON HOPPERS

Mayor Hibbs presented a letter received from Mike Hammons, Horizon Hoppers, inviting the Mayor and Council on a walk along Simpson's Creek.

TACK TRANSPORTATION

Mayor Hibbs reported that TACK Transportation representatives had requested space and van parking areas for their drivers in Nelson County. Mayor Hibbs said she was not aware of any facility for them to use at the present time.

MINUTES

The minutes from the 3-28-06 Regular City Council meeting were then presented. **UPON MOTION OF COUNCILMEMBER HEATON, DULY SECONDED BY COUNCILMEMBER LYDIAN AND THE MINUTES WERE APPROVED.**

FINANCE DEPARTMENT

Chief Financial Officer Abell distributed copies of the Budget Amendment 2006 for the Land Acquisition Fund. He then answered questions from the Council. **MOTION OF COUNCILMEMBER HAGAN, DULY SECONDED BY COUNCILMEMBER LYDIAN AND CARR, CHIEF FINANCIAL OFFICER WAS AUTHORIZING TO WRITE CHECKS BASED ON THE PROPOSED AMENDMENTS.**

SPECIAL SANITARY SEWER SERVICE AGREEMENT

Chief Financial Officer Abell distributed a Special Sanitary Sewer Agreement for Capital Construction Charge Accounts per contract with Whiskey Spring for the Council's information.

FY 2005 AUDIT RESOLUTION

The 2005 Audit Resolution was then presented as follows:

MUNICIPAL ORDER NO. 2006-4

RESOLUTION

A RESOLUTION TO ACKNOWLEDGE RECEIPT AND APPROVAL OF THE CITY OF BARDSTOWN REPORT FOR FY 2005.

The City Council of the City of Bardstown hereby resolves that the Audited Financial Statements for the Fiscal Year Ending 2005 have been received from Percy and Gray, Certified Public Accountants, and approved. A copy of the full audit report is in the office of the City's Chief Financial Officer.

UPON MOTION OF COUNCILMEMBER HEATON, DULY SECONDED BY COUNCILMEMBER SHEPHERD, CARRIED, THE RESOLUTION/MUNICIPAL ORDER #2006-4, WAS APPROVED.

TOURIST COMMISSION BUDGET APPROVAL

Mayor Hibbs then read a letter from the Bardstown-Nelson County Tourist Convention Commission regarding its FY 2006/2007 budget approval. State law requires both the Bardstown City Council and the Nelson County Fiscal Court approve the budget. **UPON MOTION OF COUNCILMEMBER SIMPSON, DULY SECONDED BY COUNCILMEMBER ROYALTY AND CARR, THE BARDSTOWN-NELSON COUNTY TOURIST AND CONVENTION COMMISSION'S FY 2006-2007 BUDGET WAS APPROVED.**

WATER & SEWER COMMITTEE REPORT

Councilmember Lydian scheduled a Water and Sewer Committee meeting for Thursday, May 4, 2006 at 5:15 p.m. He then reported on the committee meeting held on May 3, 2006. He said that there were several leaks in the roof of the Town Creek WWTP and the committee's recommendation that the roof be repaired. A discussion continued whether or not to fix the roof since there was a possibility that the plant could be closed. It was suggested that no action be taken on the roof until after the Peery had been completed.

CEMETERY REPORT

Regular Session Meeting of the Mayor and City Council
City Hall Annex Building, 220 North 5th - Xavier Dr.
Bardstown, KY 40004

Tuesday, April 11, 2006

7:30pm

Attached is a letter to the Mayor and Council Members of the City of Bardstown, Kentucky from residents in the Edgewood Neighborhood of Bardstown, Kentucky concerning a long term, reoccurring odor and the wastewater treatment facility near the neighbor hood.

In the Edgewood neighborhood of Bardstown, Kentucky there has been a reoccurring odor for several years. Over the past year this odor has occurred more frequently and much more pungently.

The City of Bardstown has established and maintains a wastewater treatment plant near the Edgewood neighborhood. Information has been presented indicating that the Environmental Protection Agency has issued citations informing City Government that this wastewater facility is not in compliance with EPA regulations. Additional information points to a lack of normal and regular maintenance.

We believe that the odor in our neighborhood comes from this wastewater treatment plant, and is a result of a lack of compliance with EPA regulations and inadequate maintenance.

We believe it is the obligation and responsibility of the Administration of the City of Bardstown to properly maintain their wastewater treatment facilities and to keep them in compliance with Federal and State laws and regulations.

We ask that the Mayor of Bardstown act to bring their wastewater treatment facilities into compliance with the EPA, and that a system of proper and regular maintenance be established.

We ask that the members of the City Council of Bardstown consider this matter important to the entire community, that they become fully informed, and that they continue to use their best efforts to monitor and resolve this issue.

ATTACHMENT G

FAMILY MEDICAL CENTER, P.S.C.

201 South Fifth Street
Bardstown, Kentucky 40004

Phone (502) 348-5968

Fax (502) 349-0963

Family Practice:

Henry Spalding, M.D. William Hagan, M.D. Matthew Stiles, M.D.
Jacob Vincent, M.D. Holly McCoy, M.D.

Nurse Practitioners:

Angela Ballard, F.N.P. Donna Wiggins, F.N.P. Kelly White, F.N.P.

October 25, 2004

RE: Dallas Armstrong – DOB – 2/11/1961

To Whom It May Concern:

I am writing in support of a disability claim for Mr. Armstrong. Mr. Armstrong has severe asthma that limits his ability to work. He has had increasing difficulty over the last two years with his asthma. He has recently been ill enough to require mechanical ventilation and nearly died. He is totally and permanently disabled. If I can be of further assistance, please let me know.

Sincerely,

Jacob W. Vincent, M.D.

FAMILY MEDICAL CENTER, P.S.C.

201 South Fifth Street
Bardstown, Kentucky 40004

Phone (502) 348-5968
Fax (502) 349-0963

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Nurse Practitioners:

Angela Ballard, F.N.P. Donna Wiggins, F.N.P. Judy Kantlehner, F.N.P.

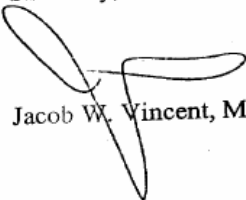
February 8, 2006

Assistant Administrator, ATSDR (CHB)
1600 Clifton Road, NE (E32)
Atlanta, GA 30333

Dear Administrator:

I am writing to petition for a public health assessment on behalf of my patient Dallas Armstrong. Mr. Armstrong has been a patient of mine for several years now and has significant concerns that a local distillery, Barton Brands in Bardstown, may be releasing substances into the air that are contributing to his respiratory problems. He feels strongly that his exacerbations of respiratory disease are timed with releases from the Barton distillery. While I have not had patients with similar concerns, we do have a high prevalence of respiratory diseases in this general area. I have not personally contacted any other government agencies, but I believe Mr. Armstrong has, and he could give you that information. Please see the letterhead for our office contact information. If I may be of further assistance in this matter, please let me know.

Sincerely,



Jacob W. Vincent, M.D.

V-07-024

Flaget Memorial Hospital
4305 New Shepherdsville Road (Hwy #245)
Bardstown, KY 40004

DISCHARGE SUMMARY

Patient Name: ARMSTRONG, DALLAS
Attending Physician: VINCENT, JACOB

ARMSTRONG, DALLAS
MD: HAGAN, WILLIAM L
DOB 02/11/1961 M/44
A# F007509219 U# F0071972
DT: 10/28/05 RM: FMS20-1

Date of Admission: 10/29/05
Date of Discharge: 11/01/05

ADMISSION DIAGNOSIS:

- 1) Reactive airway disease.
- 2) Chronic obstructive pulmonary disease exacerbation.
- 3) Allergic rhinitis.
- 4) Anxiety.
- 5) Dyspnea.
- 6) Asthma.

DISCHARGE DIAGNOSIS:

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- 3) Allergic rhinitis.
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- 5) Dyspnea.
- 6) Asthma.

SERVICES:

Family Medical Center. Initial care by Dr. Meece for us. Followup and discharge care by Dr. Vincent.

LABORATORY AND OTHER DATA DURING ADMISSION:

Please see H&P for initial laboratory data and Dr. Stiles H&P from last week. Sed rate was 3. CMP remained normal. CBC remained normal. Echocardiogram dated 11/1 was normal. CT of the chest was 10/30/05 did show some thickening of the distal esophagus above a small hiatal hernia.

BRIEF HOSPITAL COURSE:

Problems as outlined above. Mr. Armstrong did present with asthma/COPD exacerbation for which there likely is a strong allergic component. He initially was cared for on, I think, Thursday or Friday of last week and then represented immediately after leaving the hospital back to the emergency department with complaint of shortness of breath. Over the last 24 hours he had been weaned off of oxygen. He has had normal echo Doppler and his lungs have remained clear. His lungs are clear this morning. He is on no oxygen and his oxygen saturations are in the high nineties. I am going to plan to discharge him home today. He will be resumed on his home dosages of Singulair, Flonase, and nebulizers. I have recommended that he wear surgical mask outside to help avoid allergens. Also recommend that he may wish to followup with Dr. Horowitz and Dr. Lee and I will also recommend that he followup for surgical consultation in regards to the abnormal findings on the CAT scan. We will plan to see him back in our office in a couple of weeks. Prescription for prednisone was written today. He will be on a tapering dose of 60 mg, tapering over 16 days.

Patient Name: ARMSTRONG, DALLAS
Admit Date : 10/29/05

Run: 11/02/05-10:09 by McKinney, Sandra G

DISCHARGE SUMMARY - STATUS: Draft

Page 1 of 2